

The seal of the Texas Comptroller of Public Accounts is visible in the background. It features a five-pointed star in the center, surrounded by a wreath. The words "THE COMPTROLLER OF PUBLIC ACCOUNTS" are inscribed around the perimeter of the seal, and "TEXAS" is at the bottom.

**Glenn Hegar**

Texas Comptroller of Public Accounts

# Handbook of Texas Property Tax Rules

January 2015

For up-to-date versions of these rules, please see the Texas Administrative Code at:  
[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=4&ti=34&pt=1&ch=9](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=34&pt=1&ch=9)



**PROPERTY TAX RULES  
TEXAS ADMINISTRATIVE CODE  
TITLE 34. PUBLIC FINANCE  
PART 1. COMPTROLLER OF PUBLIC ACCOUNTS  
CHAPTER 9. PROPERTY TAX ADMINISTRATION**

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## SUBCHAPTER A. PRACTICE AND PROCEDURE

### 9.100. Property Value Study Advisory Committee

- (a) **Purposes and Tasks.** The purposes of the Property Value Study Advisory Committee (PVSAC) are to consult with the comptroller regarding the conduct of the property value study pursuant to Government Code, §403.302 and to consult with the comptroller regarding appraisal district reviews pursuant to Tax Code, §5.102. The PVSAC's tasks are to receive reports of the results of the property value study on an annual basis and to provide input, at the request of the comptroller, concerning the manner in which the property value study is conducted and to receive the results of appraisal district reviews on an annual basis and to provide input concerning evaluation tools, scoring and compliance requirements for the appraisal district reviews.
- (b) **Manner of Reporting.** The PVSAC will report to the comptroller by way of consultation at annual public meetings; no formal reports are required.

**Source Note:** The provisions of this §9.100 adopted to be effective May 13, 2012, 37 TexReg 3417

### 9.101. Conduct of the Property Value Study

- (a) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) **Appraisal**—A statement that estimates the market value or other legally required value of property.
  - (2) **Appraisal ratio**—The ratio of a property's appraised value as determined by the appraisal office or appraisal review board (the County Appraisal District (CAD)) value, as applicable to:
    - (A) the sale price of the property; or
    - (B) an independent appraisal of the property, as applicable.
  - (3) **Appraiser**—A comptroller employee or contractor who conducts appraisals for the property value study.
  - (4) **Assigned value**—The value of property determined in the property value study.
  - (5) **Coefficient of dispersion**—The absolute average deviation of appraisal ratios in a sample from the median appraisal ratio for the sample, expressed as a percentage of the median.
  - (6) **Comptroller**—The Comptroller of Public Accounts or the Comptroller of Public Accounts' designee.
  - (7) **Confirm**—A sale is confirmed when the comptroller has documented that the sale price for a property is correct.
  - (8) **Documentary evidence**—Writings such as letters, memoranda, appraisal records, or deeds.
  - (9) **Local property**—Property other than utility, industrial, mineral, or 1-d or 1-d-1 qualified agricultural property.
  - (10) **Median appraisal ratio**—The median level of appraisal is the median appraisal ratio of a sample of properties collected as part of the school district taxable value study in an appraisal district. The median appraisal ratio for a sample of properties is, in a numerically ordered list of the appraisal ratios for the properties:
    - (A) if the sample contains an odd number of properties, the appraisal ratio above and below which there is an equal number of appraisal ratios in the list; or
    - (B) if the sample contains an even number of properties, the average of the two consecutive appraisal ratios above and below which there is an equal number of appraisal ratios in the list.
  - (11) **Price related differential**—The price related differential is the mean of a property sample divided by the weighted mean of that sample.
  - (12) **Property value study**—The studies conducted by the comptroller in alternating or consecutive years pursuant to Government Code, §403.302 and Tax Code, §5.10, according to a coordinated schedule that ensures that CAD reviews required by Tax Code, §5.102 are conducted in years in which the studies of school districts within the

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CAD are not performed, except when consecutive year studies are mandated. The schedule of alternating studies and CAD reviews shall be determined by the comptroller.

- (13) Random sample—A sample in which each item of the population has an equal chance of being included.
  - (14) Representative sample—Representative means composed of individual properties that collectively reflect the individual characteristics of the population from which they were drawn. A representative sample meets the requirements for operational representativeness set forth in the International Association of Assessing Officers' Standard on Ratio Studies.
  - (15) Sale—A transfer of property for consideration.
  - (16) Sale date—The date on which a deed or other document transferring title to real property by sale is executed.
  - (17) Sample—A group of properties analyzed to determine characteristics of property in a school or appraisal district.
  - (18) School district split—Each portion of a school district located in different counties where properties are appraised by different appraisal districts.
  - (19) Stratification—Stratification divides the range of information for property in a district or property category into intervals and lists the number and CAD value of properties falling into each interval.
  - (20) Stratified weighted mean appraisal ratio—A stratified weighted mean appraisal ratio is calculated by separating the properties in a category sample into subcategories by value range or other property characteristics (strata) and determining the weighted mean appraisal ratio for each of the strata. The value of property in each of the strata is calculated by dividing the total CAD value by the weighted mean appraisal ratio. These individual market value estimates are then added to produce a market value estimate for the total category sample. The total CAD value of property in the category is then divided by the total category market value estimate to produce the stratified weighted mean ratio.
  - (21) Verify—A sale is verified when the comptroller has documented that a sale is a market value transaction as defined by Tax Code, §1.04(7).
  - (22) Weighted mean appraisal ratio—The weighted mean appraisal ratio is a number calculated by dividing the total CAD value of property in a sample by the total of corresponding sale prices or appraised values of property in that sample.
- (b) General statement of policy. The study constitutes a limited audit of the taxable value of property in the districts. The purpose of this section is to ensure that sufficient competent and relevant evidence affords a reasonable basis for the comptroller's judgments and conclusions regarding the taxable value of property in a school district and the appropriate measures of appraisal level and uniformity in an appraisal district.
  - (c) General standard. Except where inconsistent with these sections, the Standard on Ratio Studies, International Association of Assessing Officers, is adopted by reference as a standard for the conduct of the property value study. For the purposes of ratio study design, including but not limited to stratification and sampling design, the requirements to apply appropriate standard statistical analysis techniques set out in Tax Code, §5.10(a) and to use generally accepted auditing and sampling techniques set out in Government Code, §403.302(a) and (b) are met by complying with the Standard on Ratio Studies.
  - (d) Changing appraisal methods. The comptroller will consult regularly with representatives of property owners, industries, appraisal firms, and other interested parties to keep abreast of changing appraisal methods.
  - (e) Selection of property studied. The accuracy of the estimate of taxable property value for each school district in this state shall be the primary consideration in determining the amount and category of property included in the study sample.
    - (1) The comptroller may determine whether a category or class of property in a school district is a major category or class of property to be included in the study on a case-by-case basis. To maximize accuracy or efficient use of resources, the comptroller may decline to sample or estimate category values or measures. If a category or class of property except land qualified for appraisal based on its productive capacity has an appraised value as determined by the CAD of 5.0% or less of the total appraised value of property in categories sampled in the study, the comptroller may decline to sample or estimate the value of that category or class of property.
    - (2) The comptroller may determine that a school district split does not have enough value to necessitate that a study be conducted in that portion of the school district. Except in cases where the school district has values split among



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multiple counties, the comptroller will study at least 85% of the total value for the school district in categories deemed to have enough value to sample.

- (3) If the comptroller does not sample a school district split, a category of property in a school district, or a subcategory of property in a school district, the comptroller may calculate the district's taxable value by using the district's locally reported value to represent the value of the school district split, category, or subcategory not included in the sample.
- (f) Taxpayer data. Owners of large unique or complex properties should be advised if these properties are included in the property value study. Taxpayers shall have the option of presenting data to the comptroller to verify the CAD value as representative of market value for inclusion in the study. The comptroller shall have the option of accepting the indicated market value for inclusion in the property value study.
- (g) Determining taxable value. The taxable value of certain classes of property shall be determined according to the following appraisal methods:
  - (1) Agricultural land qualified for productivity appraisal. The comptroller may determine the productivity value of land qualified for productivity appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each land class in each school district using information provided by published sources and by individuals knowledgeable concerning local agricultural conditions. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §9.4001 of this title (relating to Valuation of Open-Space and Agricultural Lands). The estimated value per acre shall be applied to the total number of acres in each land class reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each class is the total value of agricultural property receiving productivity appraisal in the school district.
  - (2) Timber land qualified for productivity appraisal. The comptroller may determine the productivity value of land qualified for timber appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each soil class and type of timber in each school district using information provided by published sources and by individuals knowledgeable concerning local timber production. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §9.4011 of this title (relating to Appraisal of Timberlands). The estimated value per acre shall be applied to the total number of acres in each soil class for each type of timber reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each class is the total value of timber property receiving productivity appraisal in the school district.
  - (3) Utility property. Utility samples in a school district are chosen using a method that ensures sampling dominant properties and other properties as appropriate. Utilities shall be valued using recognized unitary valuation methods, that may include one or more of the cost, income, and market (sales comparison or stock and debt) approaches. Utility unit values will be allocated using generally accepted allocation methods based on the best information available. Appraisers shall consider the effects of regulation, if applicable.
  - (4) Industrial property. If the comptroller appraises an industrial property, the property shall be valued using generally accepted appraisal methods. If staff selects an industrial property sample, the property sample shall be selected without regard to whether the appraisal district performs its own industrial property appraisals.
  - (5) Mineral property. Mineral samples in a school district shall be chosen using a method that ensures sampling dominant leases and a sample of other leases as appropriate. Minerals shall be appraised using generally accepted appraisal methods, emphasizing the income approach to value.
  - (6) Local property. The comptroller shall make its determination of local property values on the basis of representative samples of property selected within school districts. Except as provided in this section, the comptroller shall select samples of properties based on the comptroller's judgment of the number and kind of properties required to be sampled to reasonably reflect the taxable value of property in each school district. The comptroller staff is not required to but may employ random sampling or other sampling procedures where feasible and appropriate.
    - (A) Estimated sample sizes shall initially be assigned by supervisory staff. The overall goal in setting the sample size is to obtain school district taxable values that are acceptably accurate and reliable. The sample size assigned for a particular category of property in a particular school district is based on the available comptroller time, the availability of current sales, variability of ratios, and the relative value of

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the category. A sample may be larger or smaller than the assigned sample if the school district's resulting taxable value is determined by supervisory staff to be acceptably accurate and reliable.

- (B) Samples may include a combination of sales and appraisals that satisfies both size and representativeness requirements. However, a sample may consist of sales only or appraisals only. All meaningful property characteristics shall be considered in selecting non-random samples. The following guidelines should be followed in non-random selection:
- (i) the sample should not be weighted in favor of sold properties that are appraised at a different level from unsold properties;
  - (ii) a sample should include properties from each primary geographic area, if the geographic area contains a significant number of the kind of property being tested and the property has significant value;
  - (iii) a sample should include improvements of varying ages;
  - (iv) sample selection should consider other property characteristics such as construction type, size, use, and business type, as required;
  - (v) stratification information should be used to ensure that samples are representative. If stratification data are unavailable, an appraiser should use informed judgment and knowledge of the area in a reasonable effort to ensure that samples are representative.
- (C) Appraisers shall categorize sample properties as they are categorized by appraisal districts (Category A, B, C, etc.), unless the comptroller determines that a property or portion of property is categorized incorrectly, in which case the comptroller may move the value of the property into the correct category. The comptroller's decision to re-categorize property may be the subject of a protest provided by Government Code, §403.303.
- (D) Appraisers should develop a sales population to maintain a thorough knowledge of local markets and appraisal practices; and to provide a population of sales from which to select property samples. Appraisers should gather sales that occurred over as broad a time period as practicable and should gather sales from a variety of sources, such as appraisal districts, real estate professionals, title companies, financial institutions, courthouse records, and other reliable sources.
- (i) As a general rule, if an appraiser's sample size is less than all the sales within a relevant time period, the sales sample will be selected randomly. However, other sample selection methods may be used.
  - (ii) The appraiser must document the source of each sale included in the property value study. The appraiser must use codes to identify the source of each sale entered into the comptroller sale/appraisal system. The appraiser must maintain sufficient written documentation to permit source verification upon request.
  - (iii) The appraiser must confirm and verify at least 20% of the sales included in each category sample for each school district or school district split from sources other than the appraisal district.
  - (iv) Sales included in a sample must be market transactions. Market transactions are consistent with the definition of market value found in Tax Code, §1.04(7). For the purposes of that section, the term "price" means the most probable price. As provided in the Standard on Ratio Studies, International Association of Assessing Officers, transactions that may be non-arm's-length sales should be clearly identified and used only if it can be established that they are consistent with the definition of market value.
  - (v) If an appraiser questions whether a transaction selected for use in the study is a market sale, the appraiser should obtain sales agreements, closing statements, statements from parties to the transaction, deed records that disclose full consideration, or other evidence sufficient to determine whether or not the transaction is a market transaction.
  - (vi) The appraiser must exclude sales of properties that change category or significant physical characteristics after the sale but before the assessment date.
  - (vii) The appraiser may not exclude a sale solely because it appears to be inconsistent with other sales in the sample. Such sales should be verified. The inconsistencies may indicate that a sale is not

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- a market transaction, but they also may indicate that information regarding the sale was recorded incorrectly. If further investigation reveals that the sale was indeed a legitimate market transaction, the appraiser may include it in the sample, despite its apparent inconsistency. If the investigation, however, reveals that the sale was not a legitimate market transaction, the sale should be excluded.
- (viii) Generally, when financing reflects prevailing market practices and interest rates, sales prices require no adjustment. Adjustments should be considered if:
    - (I) the seller and lender are the same party and financing is not at prevailing market rates;
    - (II) the buyer assumes an existing mortgage at a non-market rate of interest; or
    - (III) lenders charge the seller “points” (a percentage of the loan amount) for making money available to the purchaser/borrower.
  - (ix) Some forms of mortgage terms also may require adjustment. If these adjustments alter the sales price significantly, the use of the sale as a good indicator of market value may be questionable.
  - (x) The appraiser shall adjust sales samples for the effect of time if there is evidence of a significant value increase or decrease during the period from which sales are drawn. The appraiser must document how the time adjustments were determined. As an alternative to time adjustment, the appraiser may randomly select samples so that the value of properties sold during a specified period before the assessment date roughly approximates the value of properties sold during a similar period after the assessment date. A sample balanced in this manner will negate the effect of changes in the level of market values if those changes occurred uniformly over the study time frame.
  - (xi) The comptroller may use a method of adjusting for financing, time, personal property, or other matters affecting the sales price, that includes an overall adjustment affecting all or any relevant portion of the sales in the sample.
  - (xii) If the comptroller determines that recently sold properties are appraised by the appraisal district at a different level of value than unsold properties, the comptroller may take actions to ensure that the unsold properties are fairly represented in the sample. These actions may include using appraisals in the sample, using sales that occurred after the appraisal district certified the school district tax rolls in the sample, deleting sales from the sample, or other adjustments the comptroller deems necessary to maintain the integrity of the property value study.
- (E) Appraisals of local property are performed if the comptroller determines they are necessary to ensure the study develops competent evidence of the value of all property in the school district. Appraisals are used to ensure a representative sample of sufficient size and to test whether sold and unsold properties are assessed at the same level. The following guidelines govern the use of appraisals:
- (i) appraisal samples shall be selected randomly if practicable;
  - (ii) appraisals shall be conducted using generally accepted appraisal practices. The comptroller shall prepare written procedures as needed to conduct appraisals. The written procedures are open records. Supervisory staff shall selectively test appraisals to ensure the consistency and accuracy of data throughout the state;
  - (iii) appraisers should physically inspect each property appraised. If acreage or lots cannot be physically inspected, the appraiser may use appraisal cards, aerial photographs, soil maps, and other relevant information in performing appraisals;
  - (iv) in appraising a particular property, the appraiser may not consider the value placed on that property by the appraisal district. However, the appraiser may consult with appraisal district staff and review appraisal district records to gather information relevant to the appraisal;
  - (v) the market value estimate for a particular property account must include the value of all property associated with that account, e.g., multiple improvements, paving, outbuildings, signs, business vehicles, additional lots, etc. The appraiser may use the appraisal district’s value for any item(s) that the appraiser is unable to appraise if the item(s) in question represent an insignificant portion of the appraisal district’s total appraised value for the account.

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- (h) Local reports of taxable value. Local reports of taxable value are essential parts of the property value study. Appraisal districts shall submit their annual appraisal roll using the comptroller's Electronic Appraisal Roll Submission record layout according to §9.3059 of this title (relating to Certification of Appraisal Roll). This submission results in a local report of taxable value which the comptroller shall thoroughly review as needed to ensure reliability. The comptroller must document the date of and reasons for each revision.
  - (i) Protest or request for audit. A protest or request for an audit of the Property Value Study findings shall be submitted in accordance with Subchapter L of this chapter (relating to Procedures for Protesting Comptroller Property Value Study and Audit Findings) or §9.103 of this title (relating to Audits of School District Taxable Property Values), as applicable.
  - (j) Determination of school district value. School district taxable values shall be determined in a manner that maximizes the accuracy and reliability of the taxable value in each school district.
    - (1) The taxable value of a category of property in a school district shall be determined by dividing the total locally appraised value of property in that category by the weighted mean or stratified weighted mean ratio for the sample of property selected from that category. However, the taxable value of property in a category may be determined by other methods if it is determined that sufficient competent evidence requires their use.
    - (2) The taxable value of property in a school district shall be determined by adding together the taxable value of property in each category of property in the school district and subtracting from the total the items listed in Government Code, §403.302(d). However, the taxable value of property in a school district may be determined by other methods if it is determined that sufficient competent evidence requires their use.
  - (k) Determination of appraisal district measures. Appraisal district measures shall be determined from the sales and appraisals gathered as a part of the school district taxable value study.
    - (1) The median level of appraisal for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by Tax Code, §5.10.
    - (2) The coefficient of dispersion for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by Tax Code, §5.10.
    - (3) The comptroller may determine and report other measures of appraisal accuracy and uniformity it deems useful and informative.
  - (l) Certification of taxable values in school districts in which Government Code, §403.302(d)(9)(B) is applicable. The comptroller will determine separate taxable values to reflect value subject to maintenance and operations tax rates and value subject to interest and sinking fund tax rates in school districts in which Government Code, §403.302(d)(9)(B) is applicable. Such values will be certified to the commissioner of education, published, and delivered as required under Government Code, §403.302.

**Source Note:** The provisions of this §9.101 adopted to be effective December 13, 1996, 21 TexReg 11811; amended to be effective March 31, 2010, 35 TexReg 2605; amended to be effective December 4, 2011, 36 TexReg 8037

### **9.103. Audits of School District Taxable Property Values**

- (a) Definitions.
  - (1) Taxable value audit means an investigation or review made to determine if the certified property value study findings of a school district's taxable property value under Government Code, Chapter 403, should be changed to correct clerical errors in the comptroller's records, and to reflect changes in local tax rolls that occurred after the school district's most recent property value report to the comptroller for the property value study year that is the subject of the audit request.
  - (2) Recapitulation means one or more computer-generated summaries of appraisal roll information that:
    - (A) are designed for purposes other than this audit;
    - (B) are produced by an appraisal district or a taxing unit that collects for the school district; and
    - (C) on the effective date show certified values for each type of exemption, other value losses, each property category, and each land class matching the values shown in the amended *School District Report of Property Value* and *Report on Value Lost Because of the School Tax Limitation on Homesteads of the Elderly* submitted with the audit request.

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- (3) Property value study year means the year for which the comptroller certified the school district's final taxable value that is the subject of the taxable value audit.
  - (4) Effective date means the single date for which all values and other reported information subject to the taxable value audit are correct.
  - (b) Taxable value audit requestors.
    - (1) A school district may request an audit of its taxable value finding determined by the comptroller and certified to the commissioner of education under Government Code §403.302(g); or
    - (2) the commissioner of education may request an audit of any school district's taxable value finding determined by the comptroller and certified to the commissioner of education under Government Code §403.302(g).
  - (c) Taxable value audit request. A request for a taxable value audit by a school district must be made to the Manager of the Property Tax Division in writing on the Request for School District Taxable Value Audit (form 50-302). A request for a taxable value audit from the commissioner of education must be made to the Manager of Property Tax Division in any written form and signed by the commissioner. At the time of submission, a school district request must include all documentation necessary for staff to complete the audit. A school district for which an audit is requested by the commissioner of education must submit all documentation that would be required in a school district request within 30 days of notification by the Property Tax Division that a request for audit was made. A complete request must:
    - (1) name the school district for which the taxable value audit is requested;
    - (2) be signed by the school superintendent;
    - (3) name one agent who may be the school superintendent or any person designated by the superintendent or the commissioner of education, as appropriate, who will be the primary point of contact for all correspondence and questions regarding the audit;
    - (4) state the property value study year in question;
    - (5) state one effective date;
    - (6) include an amended *School District Report of Property Value*, signed by the authorized official or agent, that correctly incorporates each applicable correction, accompanied by a statement summarizing the reasons for the corrections;
    - (7) include an amended *Report on Value Lost Because of the School Tax Limitation on Homesteads of the Elderly*, signed by the chief appraiser or school district agent, that correctly incorporates each applicable correction, accompanied by a statement summarizing the reasons for the corrections;
    - (8) include for appraisal districts that store appraisal roll information electronically, a computer-generated recapitulation;
    - (9) include for appraisal districts in which a recapitulation is not available, an appraisal review board change order, correction, or supplement for each property changed since the date of the last School District Report of Property Value submitted to the comptroller, accompanied by the certification from the chief appraiser that communicated each change to the taxing unit, along with a copy of the tax record showing the original and amended value for each property changed for the tax year subject to the audit; and
    - (10) include a Chief Appraiser Affidavit of Value for School District Audit model form 50- 303 (with the exception of audit requests filed after June 1 of the third year following the property value study year that pertain solely to final determinations in court cases).
  - (d) Number of requests and request deadline. Up to three separate taxable value audit requests pertaining to the same property value study year may be submitted at any time after the comptroller certifies final values to the commissioner of education, but must be filed before July 1 of the third year following certification. Requests will be timely if received by the comptroller's property tax division manager:
    - (1) by personal delivery on or before June 30;
    - (2) by United States mail if sent by regular first-class mail, properly addressed with postage prepaid and bearing a post office cancellation mark on or before June 30; or
    - (3) by express mail corporation in a properly addressed envelope or wrapper, showing a legible date to prove delivery to the express mail corporation on or before June 30.



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- (e) Deadline extension. The taxable value audit request deadline provided in subsection (d) of this section may be extended only to reflect:
- (1) final determinations in court cases that occurred after June 1 of the third year following the property value study year for which the school district provides the final judgments with the audit request; or
  - (2) appraisal review board actions, and actions taken under Property Tax Code §25.25, that:
    - (A) occurred after June 1 of the third year following the property value study year;
    - (B) are submitted to the comptroller's property tax division by July 1 of the year following the property value study year in which the actions occurred as part of an audit request that meets all the requirements of this section; and
    - (C) total more than \$20 million or 2.0% of the most recent taxable value in the school district as determined under Government Code §403.302 or §403.303, for the property value study year in question, whichever is least.
- (f) Incomplete requests. A request that omits any item listed in subsection (c) of this section is incomplete. If items described in subsection (c)(7)-(9) of this section, or acreage breakdowns on the *School District Report of Property Value*, are unavailable to the district, are not material to the corrections requested, and do not result in a materially incorrect taxable value for the district, staff may make corrections based on items in subsection (c) of this section that were provided by the district and may not make corrections for items not provided by the district.
- (g) Additional information. Comptroller staff may request additional information from the school district, its appraisal district, or any other source as needed to complete the taxable value audit. If the school district, or its appraisal district does not provide the additional information within 30 days of the staff request, comptroller staff may deny any adjustments related to the additional information without notice. The 30-day period may be extended for an additional 30 days if the school district cannot obtain the information within the original 30 days for reasons outside the school district's control.
- (h) Prior proceeding. In conducting a taxable value audit, comptroller staff shall consider whether the matter presented in the taxable value audit request has been finally resolved in a prior audit or audit request, property value study protest, or judicial proceeding. If so, the staff may base its taxable value audit finding on the result of that prior audit or audit request, property value study protest, or judicial proceeding.
- (i) Audit conduct. The comptroller's primary goals in conducting the taxable value audit are to update the property value study and make the study more accurate. Consequently, comptroller staff may accept numerical documentation with nominal internal inconsistencies, reject numerical documentation that leads to unreasonable results, and otherwise exercise sound judgment in arriving at the most accurate total taxable value in the school district. Comptroller staff may conduct the taxable value audit by reviewing the required documentation submitted with the audit request, or may include a review of the relevant records by personal inspection at the tax office, appraisal office, or any other public office.
- (j) Amending an audit request. An audit request may be amended at any time prior to the date of the issuance of the preliminary finding but may not be amended to change the effective date of the audit. A change in an effective date must be submitted as part of a new audit request.
- (k) Withdrawal of audit request. An audit request may be withdrawn at any time before the comptroller issues a preliminary audit finding if the comptroller's property tax division manager determines that the withdrawal will not cause a significant adverse effect on the accuracy of the property value study. After the preliminary audit finding is issued, the audit request may be withdrawn only with the approval of the comptroller's hearing examiner.
- (l) Taxable value certification and protest. After considering all the relevant information submitted by the school district and from other reliable sources, comptroller staff shall recalculate the school district's total taxable value and certify a preliminary taxable value audit finding to the commissioner of education. The total taxable value certified in the preliminary taxable value audit finding may be greater than, less than, or the same as the most recent total taxable value certified to the commissioner of education under Government Code §403.302 or §403.303, for the property value study year subject to the taxable value audit, but shall not affect the validity presumption used in that certification. A school district may protest the preliminary taxable value audit finding by following the procedures prescribed in §9.109.
- (m) Audit request acceptance. The comptroller may not accept a taxable value audit request, or any part of an audit request, if the audit request:

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- (1) does not meet the requirements of this section;
  - (2) subject to subsection (f) of this section lacks any material item required in subsection (c) of this section or required by the model forms;
  - (3) raises an issue previously determined in a protest of preliminary findings of value;
  - (4) asks for corrections that duplicate corrections requested in a previous audit for which the comptroller has issued a final finding; or
  - (5) involves a property value study year for which the relevant comptroller records, computer programs, or property value study procedures do not exist or cannot accurately be replicated.
- (n) Audit request resubmission. A taxable value audit request that was not accepted may be brought into compliance and resubmitted before the July 1 deadline of the third year following the certification of the property value study year in question.
- (o) Effective date. This section applies to all taxable value audit requests submitted after June 30, 2003.
- (p) The model forms in paragraph (1) and (2) of this subsection are adopted by reference by the Comptroller of Public Accounts. Copies of these forms are available for inspection at the office of the Texas Register or can be obtained from the Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528. Copies may also be requested by calling our toll-free number 1-800-252-9121. In Austin, call (512) 305-9999. From a Telecommunications Device for the Deaf (TDD), call 1-800-248-4099, toll free. In Austin, the local TDD number is (512) 463-4621.
- (1) Request for School District Taxable Value Audit (Form 50-302); and
  - (2) Chief Appraiser Affidavit of Value for School District Audit (Form 50-303).

**Source Note:** The provisions of this §9.103 adopted to be effective May 7, 2003, 28 TexReg 3735

## **SUBCHAPTER B. PERFORMANCE AUDIT ADMINISTRATION**

### **9.201. Performance Audit Procedures**

- (a) The following parties may request a performance audit of an appraisal district under this section as provided by the Tax Code, §5.12:
- (1) the governing bodies of a majority of the taxing units participating in an appraisal district;
  - (2) the governing bodies of a majority of the taxing units entitled to vote on the appointment of appraisal district directors;
  - (3) the owners of not less than 10% of the number of accounts or the owners of not less than 10% of the number of parcels of property established by the Comptroller of Public Accounts for purposes of the study conducted under the Government Code, §403.302, if the class constitutes at least 5.0% of the appraised value of taxable property within the district in the preceding year; or
  - (4) the owners of property representing not less than 10% of the appraised value of all property in the district belonging to a class of property established for purposes of the study conducted by the Comptroller of Public Accounts under the Government Code, §403.302, if the class constitutes at least 5.0% of the appraised value of taxable property in the district in the preceding year.
- (b) A performance audit must be requested in writing on a Comptroller of Public Accounts form. Taxing units must use Comptroller of Public Accounts Form 50-239. Property owners must use Comptroller of Public Accounts Form 50-238. Comptroller of Public Accounts Forms 50-238 and 50-239 are adopted by reference. Copies of the forms can be obtained from the Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.
- (c) A request for a performance audit must contain the following information:
- (1) a request from taxing units must include the name and original signature of the presiding officer of each requesting unit and copy of the resolution or other evidence of official action that authorizes the request;

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- (2) a request from property owners must include the name and original signature of each requesting property owner, the account or parcel number(s) of the owner's property, and the appraised value of the property the preceding tax year;
  - (3) the name of the appraisal district that is the subject of the request;
  - (4) information showing that the parties to the request meet all requirements for requesting a performance audit established by the Tax Code, §5.12(b) and (c);
  - (5) whether the performance audit requested is a general audit or is to be limited to one or more specific areas of performances, and identifying the specific areas; and
  - (6) the designation of an individual as the sole representative of all parties to the request for performance audit. All matters pertaining to the audit and requiring communications or transactions between the comptroller and the parties making the request will be directed by the comptroller to the requested parties through the designated representative.
- (d) A general audit shall consider and report on the following areas of performance:
- (1) the extent to which the district complies with applicable law or generally accepted standards of appraisal or other relevant practice;
  - (2) the uniformity and level of appraisal of major kinds of property and the cause of any significant deviations from ideal uniformity and equality of appraisal of major kinds of property;
  - (3) duplication of effort and efficiency of operation;
  - (4) the general efficiency, quality of service, and qualification of appraisal district personnel; and
  - (5) except as otherwise provided by subsection (e) of this section, any other matter included in the request for the audit.
- (e) Parties may not request an audit of:
- (1) the financial condition of the appraisal district;
  - (2) an appraisal district's tax collections;
  - (3) an appraisal district function that is not required of the appraisal district by the Tax Code, the Education Code, or other laws of the state of Texas;
  - (4) a function the appraisal district performs under interlocal contracts or pursuant to a consolidation election held under the Tax Code, §6.26;
  - (5) an action of an individual not directly related to the performance of the appraisal district;
  - (6) an alleged criminal act or act of official misconduct as defined in the Penal Code;
  - (7) the value of a particular property; the grant or denial of an exemption in a particular case, the grant or denial of special appraisal to a particular property, the situs of a particular property, or similar matters involving individual properties that are properly in the jurisdiction of the appraisal review board;
  - (8) an issue other than the level of appraisal or degree of uniformity of a category of property or of all property in the appraisal district that is directly involved in litigation; or
  - (9) a matter that involves actions or determinations in any year earlier than the year of the request.
- (f) The comptroller shall approve all requests for performance audits meeting the requirements set forth within this section.
- (g) The comptroller shall disapprove those requests for performance audits that do not meet the requirements of this section and those portions of requests for performance audits containing requests to audit any of the areas listed within subsection (e) of this section.
- (h) For purposes of this chapter the property value study conducted by the comptroller under the Government Code, §403.302, and the Tax Code, §5.10, is a performance audit on a matter of uniformity and level of appraisal of property in an appraisal district.
- (i) The comptroller shall send written notice of an audit request to the presiding officer of the appraisal district board of directors and to the chief appraiser within seven days after receipt of the request.



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- (j) Following approval of an audit request, the comptroller may require a pre-audit conference with the requesting parties or their representative. The purpose of the conference will be to clarify the elements of the audit request and to provide a foundation for an accurate cost estimate.
  - (k) Prior to the start of a performance audit, the comptroller shall prepare and deliver to the requesting parties an estimate of anticipated costs of conducting the audit. Costs include expenses related to salaries, professional fees, travel, reproduction or other printing services, and consumable supplies that are directly attributable to conducting the audit.
  - (l) If at any time during the audit the comptroller finds that additional costs are anticipated above the original cost estimate, the comptroller shall amend the costs.
  - (m) Following completion of a cost estimate, the comptroller shall direct the requesting parties to deposit with the comptroller security in the amount of the cost estimate to secure payment of the costs of conducting the audit.
  - (n) The security required by subsection (m) shall be a cash deposit or other financial security the comptroller determines is adequate to cover the expected costs to the comptroller of conducting the audit.
  - (o) Security shall be deposited in the name of or assigned to the Comptroller of Public Accounts.
  - (p) If the comptroller finds that costs are anticipated above the cost estimate, he may require additional security from the requesting parties.
  - (q) Following the satisfaction of all security requirements, the comptroller shall provide written notice of the commencement date of the audit. Notice shall be made to the authorized representative of the requesting parties, to the presiding officer of the appraisal district board of directors, and to the chief appraiser at least 14 days prior to the beginning of field work on the audit.
  - (r) The comptroller staff shall develop standards and procedures for conducting performance audits under this chapter.
  - (s) Following payment of the costs of conducting the audit and completing the report, the comptroller shall report the results of its audit. The report shall address all elements of the request as approved by the comptroller. If the request is for an audit limited to one or more particular matters, the report shall be limited to those matters. The report shall be in writing to the governing body of each taxing unit that participates in the appraisal district, to the chief appraiser and to the presiding officer of the appraisal district board of directors. If the audit was requested by property owners, a written report shall also be provided to the representative of the property owners who requested the audit.
  - (t) The comptroller may discontinue the audit in whole or in part:
    - (1) if requested to do so by the requesting parties;
    - (2) if any matter within the audit request becomes the subject of litigation or protest or challenge before the appraisal review board in the county; or
    - (3) if any matter within the audit request becomes the subject of a criminal investigation or prosecution.
  - (u) If the audit is discontinued, the comptroller shall make and distribute a report of costs incurred and elements of the request considered by the comptroller, if any.

**Source Note:** The provisions of this §9.201 adopted to be effective December 13, 1996, 21 TexReg 11815

### **9.301. Appraisal District Reviews**

- (a) Definitions. The following words and terms when used in this subchapter shall have the following meanings unless the context indicates otherwise.
  - (1) Comptroller—The Texas Comptroller of Public Accounts or the comptroller's designee.
  - (2) District—A county appraisal district.
  - (3) Division—The Property Tax Assistance Division of the Office of the Comptroller of Public Accounts.
  - (4) Generally accepted appraisal standards, procedures, and methodology—Standards and procedures adopted or recommended by the International Association of Assessing Officers (IAAO) concerning appraisal, contracting, personnel, and administration of ad valorem taxation, and The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice.

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- (5) Review—The comptroller’s review of the governance of each appraisal district, taxpayer assistance provided, and the operating and appraisal standards, procedures, and methodology used by each appraisal district as required by Tax Code, §5.102.
  - (6) Score—The measure of performance indicated at the conclusion of a review.
  - (7) Study—The property value studies required by Government Code, §403.302 and Tax Code, §5.10.
  - (8) Remedial action—Activities and decisions made by the board of directors of a district that demonstrate awareness of and concern for implementing the review’s recommendations and actions taken which demonstrate significant progress towards implementing the recommendations in a timely manner.
- (b) Biennial Review. A review of every district shall be conducted once every two years according to a schedule in which approximately one-half of the districts are subject to reviews each year. The comptroller may determine the schedule of reviews and assignments of districts based on considerations which include, but are not limited to, the efficient use of comptroller resources and coordination with the schedule for conducting the study.
  - (c) Scope of Review. The review shall be based on requirements of the Tax Code, comptroller rules, other laws, and generally accepted appraisal standards, procedures and methodology. The division shall develop questions, conduct physical inspections of property and appraisal records, and use other methods that are designed to determine compliance with these requirements and to develop a score. Compliance with §§9.3001, 9.3002, 9.3003, and 9.3004 of this title (relating to Appraisal Cards; Tax Maps; Uniform Tax Records System; and Appraisal Records of All Property) is mandatory and required to obtain a passing score.
  - (d) Scores. The results of a district review shall be scored at the conclusion of the review. Scores shall include pass or fail determinations for compliance requirements deemed mandatory by the comptroller. A district must pass all mandatory compliance requirements in order for a school district to be in compliance with the requirements of Government Code, §403.3011(2)(D). A recommendation shall be made by the division for each indication of non-compliance. Scores for other requirements shall be divided into the following categories:
    - (1) governance;
    - (2) taxpayer assistance;
    - (3) district operations; and
    - (4) appraisal standards, procedures and methodology.
  - (e) Reporting. The division shall provide a draft report of the review findings and recommendations to the district’s chief appraiser by September 1 or as soon thereafter as practicable by United States Postal Service first-class mail or by e-mail. The review for each district shall be completed by the division no later than December 31. As soon thereafter as practicable, the division shall publish on the comptroller’s website the comptroller’s findings and recommendations for improvement resulting from the review. At or reasonably promptly after the findings and recommendations for improvement resulting from the review are published on the comptroller’s website, the comptroller shall, by United States Postal Service first-class mail or by e-mail, notify the following that the findings and recommendations have been published: the district’s chief appraiser and board of directors and the superintendent and board of trustees of each school district participating in the district.
  - (f) Compliance with review recommendations. The district and its board of directors shall take remedial action reasonably designed to ensure substantial compliance with each recommendation in the review within 12 months from the date that the results of the review were delivered as required by this section. The comptroller shall determine substantial compliance during December of the year following the year of the review. Substantial compliance may be determined if the district has taken remedial action for each recommendation in the review. If the comptroller determines that the district has not achieved substantial compliance, the Texas Department of Licensing and Regulation shall be notified and provided copies of the results and recommendations of the review within 30 days of the comptroller’s determination.

**Source Note:** The provisions of this §9.301 adopted to be effective February 22, 2010, 35 TexReg 1468; amended to be effective December 4, 2011, 36 TexReg 8038

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## SUBCHAPTER C. APPRAISAL DISTRICT ADMINISTRATION

### 9.402. Special Use Application Forms

- (a) In applying for special use valuation under Tax Code, Chapter 23, the applicant shall use a form provided by the appraisal office. The appraisal office shall use the model form adopted by the Comptroller of Public Accounts which is appropriate to the special use type, or use a form containing information which is in substantial compliance with the model form adopted by the comptroller. All forms referenced in this section must include all language required by statute.
- (b) The comptroller's model forms applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division. The model special use application forms are:
  - (1) Application for 1-d Agricultural Appraisal (Form 50-165);
  - (2) Application for 1-d-1 (Open-Space) Agricultural Use Appraisal (Form 50-129);
  - (3) Application for 1-d-1 (Open-Space) Timber Land Appraisal (Form 50-167);
  - (4) Application for Open Space Land Appraisal for Ecological Laboratories (Form 50-166);
  - (5) Application for Appraisal of Recreational, Park, and Scenic Land (Form 50-168);
  - (6) Application for Appraisal of Public Access Airport Property (Form 50-169); and
  - (7) Application for Restricted-Use Timber Land Appraisal (Form 50-281).

**Source Note:** The provisions of this §9.402 adopted to be effective July 17, 1992, 17 TexReg 4807; amended to be effective March 18, 1996, 21 TexReg 1888; amended to be effective February 3, 1998, 23 TexReg 796; amended to be effective March 8, 2000, 25 TexReg 1878; amended to be effective July 14, 2002, 27 TexReg 6045; amended to be effective March 10, 2008, 33 TexReg 2032; amended to be effective April 2, 2012, 37 TexReg 2222

### 9.415. Applications for Property Tax Exemptions

- (a) With the application for exemption for residence homesteads, the appraisal office shall:
  - (1) provide a list of taxing units served by the appraisal district, together with all residential homestead exemptions each offers; or
  - (2) provide the appraisal district's name and appraisal district's phone number on the form, with an instruction that the property owner may call the appraisal district to determine what homestead exemptions are offered by the property owner's taxing units.
- (b) If the chief appraiser learns of the death of a person qualified for over-65 or disabled homestead exemptions (Tax Code, §11.13) and it appears that the person's spouse has acquired ownership of the homestead, the chief appraiser should require the surviving spouse to file a new homestead exemption application. Based on the information provided in the new application, the chief appraiser shall determine whether the surviving spouse qualifies for homestead exemptions, including over-65 or disabled exemptions, and whether the surviving spouse may retain the tax ceiling for school tax purposes established on the homestead by the decedent.
- (c) The comptroller may prescribe forms for use in the administration of the ad valorem tax exemptions. The prescribed forms will not be adopted by rule unless required by statute. If a form is prescribed for a particular purpose, the content of a form used by the appraisal district must comply with the most recently prescribed form as of the date specified.

**Source Note:** The provisions of this §9.415 adopted to be effective December 13, 1996, 21 TexReg 11819; amended to be effective February 2, 1998, 23 TexReg 796; amended to be effective May 4, 1998, 23 TexReg 4319; amended to be effective March 9, 2000, 25 TexReg 1879; amended to be effective April 3, 2002, 27 TexReg 2535; amended to be effective March 28, 2004, 29 TexReg 2921; amended to be effective December 5, 2005, 30 TexReg 8176; amended to be effective February 26, 2008, 33 TexReg 1601; amended to be effective January 3, 2010, 34 TexReg 9473

### 9.416. Continuation of Residence Homestead Exemption While Replacement Structure is Constructed

- (a) If a qualified residential structure for which the owner receives an exemption under Tax Code, §11.13, is rendered uninhabitable or unusable under the conditions described in Tax Code, §11.135(a), the owner is entitled to a continuation

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of the exemptions for so long as the requirements of Tax Code, §11.135(a) are met. The chief appraiser shall continue the exemptions without the owner being required to file any form or request for the continuation.

- (b) If the chief appraiser determines that the property owner has not complied with the provisions of Tax Code, §11.135(a), the chief appraiser shall follow the notice and billing requirements of Tax Code, §11.135(c) as though the property had been sold before the owner completed construction of a qualified replacement structure on the property.
- (c) A property owner receiving a continuation of an exemption under Tax Code, §11.135, shall notify the appraisal office within 30 days after the date that eligibility for the continuation ends.

**Source Note:** The provisions of this §9.416 adopted to be effective March 1, 2010, 35 TexReg 1759

#### **9.417. Property Tax Exemption for Organizations Engaged Primarily in Charitable Activities**

- (a) Request for Comptroller Determination Submitted to Comptroller. An organization seeking an exemption pursuant to Tax Code, §11.184 shall use the model determination request form prescribed by the comptroller and follow all instructions and guidelines published by the comptroller for requesting a comptroller determination as provided by Tax Code, §11.184.
- (b) Application for Exemption Submitted to Appraisal District. An organization seeking an exemption pursuant to Tax Code, §11.184 may use the model exemption application form prescribed by the comptroller or another form containing all information included in the comptroller's model form.
- (c) An organization seeking an exemption pursuant to Tax Code, §11.184 must comply with the filing requirements for application for property tax exemption that are stated in Tax Code, §11.43(d). A request to the comptroller for a determination letter for purposes of compliance with Tax Code, §11.184 does not automatically extend the deadline for filing an application for exemption.
  - (1) If an organization has not received a determination letter from the comptroller, the organization may use the following procedure to request that the chief appraiser extend the filing deadline for an application for exemption.
    - (A) The organization must submit to the chief appraiser a written request for an extension by no later than April 1;
    - (B) The request for extension should state that the organization has submitted a request for a determination letter to the comptroller and should have as an attachment a copy of the request for determination letter that the organization submitted to the comptroller;
    - (C) The chief appraiser shall grant the organization's request for extension for a period of not longer than 60 days if the organization has complied with subparagraphs (A) and (B) of this paragraph;
    - (D) The chief appraiser may verify with the comptroller that a request for a determination letter has been submitted.
  - (2) Notwithstanding paragraph (1) of this subsection, the chief appraiser may extend the deadline for filing an application for exemption at any time under the authority provided by Tax Code, §11.43.
- (d) If the chief appraiser, upon receipt of the application for tax exemption, disagrees with the comptroller's determination, then the chief appraiser may request a review of the determination by submitting a written request to the comptroller.
  - (1) The written request for reconsideration must be directed to the manager of the Tax Policy Division, must contain specific grounds on which the chief appraiser disagrees with the comptroller's determination, and must be accompanied by specific evidence that supports each ground that the chief appraiser asserts.
  - (2) The comptroller will respond to the written request for reconsideration within 30 calendar days from the date on which the request for reconsideration was received.
  - (3) The comptroller's decision to uphold the determination is conclusive evidence that an organization is engaged primarily in performing charitable function as well as whether the corporation meets the requirements of Tax Code, §11.184(1)(1) and (2), if applicable. The decision is not subject to further appeal.
- (e) Forms. All comptroller forms applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.417 adopted to be effective March 21, 2002, 27 TexReg 2053; amended to be effective March 14, 2004, 29 TexReg 2371; amended to be effective February 22, 2010, 35 TexReg 1469; amended to be effective April 3, 2012, 37 TexReg 2222

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## 9.419. Procedures for Determining Property Tax Exemption for Motor Vehicles Leased for Personal Use

- (a) Effective Date. This section is effective for motor vehicles that are leased on or after January 2, 2001.
- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.
  - (1) Lease—An agreement whereby an owner of a motor vehicle for consideration gives exclusive use of a motor vehicle to another for a period that is longer than 180 days.
  - (2) Lessee—A person who enters into a lease for a specific motor vehicle primarily for the personal use of the lessee or the lessee's family.
  - (3) Lessor—A person who owns a motor vehicle that is leased to another person.
  - (4) Lessee's Affidavit—A sworn statement that a lessee executes to attest that the lessee does not hold the leased motor vehicle for the production of income and does not primarily use the leased motor vehicle for the production of income.
  - (5) Motor vehicle—A passenger car or truck with a shipping weight of 9,000 pounds or less.
  - (6) Reasonable date and/or time—A work weekday, Monday through Friday, and a time that is after 8:00 a.m. and before 5:00 p.m., unless the appraisal district and the lessor agree otherwise.
- (c) The comptroller will make available model forms that are adopted by reference in paragraph (1) of this subsection. Copies of the forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.
  - (1) The comptroller adopts by reference the following model forms:
    - (A) Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285); and
    - (B) Lessor's Rendition or Property Report for Leased Automobiles (Form 50-288).
  - (2) A chief appraiser or lessor must use the comptroller's model forms that are adopted by reference in paragraph (1) of this subsection, unless the non-model form:
    - (A) substantially complies with the corresponding model form by using the same language in the same sequence as the model form;
    - (B) is an electronic version of a comptroller's model form and preserves the same language in the same sequence as the comptroller's model form; or
    - (C) has been approved by the comptroller in writing before the form is used.
  - (3) After a lessee's affidavit is signed by a lessee and properly notarized, a lessor may make an electronic image of the lessee's affidavit and may produce the electronic image of the affidavit to the chief appraiser when an inspection is requested, subject to the condition of subsection (e)(1)(D) of this section.
  - (4) Subject to the limitations that are provided in paragraph (2) of this subsection, if a chief appraiser uses a form other than the one that the comptroller has adopted, then the chief appraiser must make the form available to the lessor. A chief appraiser may not mandate the use of his form in lieu of the comptroller's model form and may not deny a lessor's claim for exemption based solely on the lessor's failure to use the chief appraiser's form.
  - (5) No provision in this section should be construed as limiting the chief appraiser's authority to enter into an agreement for electronic exchange of information covered by this section in a format agreed to by the chief appraiser and the lessor.
- (d) A lessor satisfies the requirements of Tax Code, §11.252, for exemption of leased motor vehicles if the lessor:
  - (1) properly completes and timely files with the chief appraiser the Lessor's Rendition or Property Report for Leased Automobiles (Form 50-288);
  - (2) properly completes and timely files with the chief appraiser the comptroller-prescribed model application form (Lessor's Application for Personal Use Lease Automobile Exemptions);
  - (3) receives Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) that the lessee executed on or before the date on which the required forms that are enumerated in paragraphs (1) and (2) of this subsection have been filed; and



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- (4) maintains each Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) that pertains to each leased motor vehicle for which the lessor seeks an exemption.
  - (e) A chief appraiser may inspect and/or obtain copies of lessees' affidavits that the lessor maintains.
    - (1) Unless agreed to otherwise, a lessor and a chief appraiser shall use the following procedures when the chief appraiser proposes to inspect lessees' affidavits on leased motor vehicles for which the lessor seeks an exemption.
      - (A) No less than 10 days prior to the inspection, the chief appraiser shall provide the lessor with notice of the chief appraiser's intention to inspect the lessees' affidavits in the lessor's possession or control. The notice must state a reasonable date and time when the chief appraiser proposes to inspect the lessees' affidavits and shall identify the affidavits that will be subject to inspection.
      - (B) If the proposed date or time is not convenient, then the lessor may propose an alternate reasonable date or time by notifying the chief appraiser in writing.
      - (C) The lessor shall provide the chief appraiser with reasonable accommodations to inspect and copy any of the lessees' affidavits, or shall permit the chief appraiser to take the affidavits off premises for a period of no less than 48 hours to inspect and copy.
      - (D) The lessor may provide electronic images of the lessees' affidavits, unless the chief appraiser does not have equipment to receive or read electronic images. If the image is not sufficiently clear to distinguish the characteristics of a lessee's handwriting and to see the notarized signature and any other relevant details, the chief appraiser may request to inspect an original lessee's affidavit.
      - (E) If the lessor is located more than 150 miles from the appraisal district's office, then the chief appraiser may submit a written request that the lessor either copy and mail the identified lessees' affidavits or send the original affidavits to the chief appraiser for at least 14 days for inspection and copying. The chief appraiser and the lessor may determine who should bear the costs of copying and mailing.
    - (2) A chief appraiser should first attempt to obtain information from the lessor. If the lessor does not provide the requested information within the specified time period, then the chief appraiser may contact the lessee directly.
  - (f) A properly executed Lessee's Affidavit of Primarily Non Income Producing Vehicle Use (Form 50-285) is prima facie evidence that the motor vehicle is not held for the production of income and is used primarily for non-income producing activities. A chief appraiser shall also consider the following evidence of primarily non-income producing use:
    - (1) an affidavit by the lessee's spouse or other credible person who has information about the use of the leased motor vehicle and mileage records; and
    - (2) a statement by the lessee's employer that the motor vehicle was not used or required to be used in the lessee's employment.
  - (g) If a chief appraiser has reason to question, in whole or in part, the validity of the lessor's application for exemption, then the chief appraiser may investigate and shall notify the lessor of the chief appraiser's intent to investigate. The notice that is required by this rule shall:
    - (1) identify the motor vehicle that the chief appraiser questions as qualifying for the exemption;
    - (2) state separately the reason for questioning the claimed exemption or lessee's affidavit;
    - (3) specify the additional information that the chief appraiser seeks; and
    - (4) state the due date upon which the requested information must be delivered.
  - (h) If a chief appraiser determines that some of the motor vehicles that the lessor claims in the application for exemption do not qualify for exemption, then the chief appraiser may modify the exemption by disallowing the amount of value that the non-exempt leased motor vehicles represent, but shall grant the exemption on the remaining value of the leased motor vehicles. Any notice of modification or denial of the claimed exemption shall be made in accordance with the notice requirements of Tax Code, §11.43 and §11.45.
  - (i) The comptroller-prescribed, model application form (Lessor's Application for Personal Use Lease Automobile Exemptions) is not adopted by reference herein and may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.419 adopted to be effective March 21, 2002, 27 TexReg 2055; amended to be effective March 25, 2004, 29 TexReg 2922; amended to be effective March 10, 2008, 33 TexReg 2033; amended to be effective October 10, 2010, 35 TexReg 9107

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## SUBCHAPTER D. APPRAISAL REVIEW BOARD

### 9.803. Requirements for Appraisal Review Board Records

The record kept by each appraisal review board for each proceeding of the board shall contain the following items:

- (1) names of the board members present and the date of the proceeding;
- (2) the name of the chief appraiser if the chief appraiser appears at the proceeding or, if a chief appraiser's designee(s) appear(s) instead of the chief appraiser, the name(s) of such designee(s);
- (3) the names of all other persons appearing on behalf of the appraisal district;
- (4) the name and resident address of the protesting property owner or the name and address of the challenging taxing unit, as applicable;
- (5) the names of persons appearing at the proceeding on behalf of the board and any protesting or challenging party, a description of such persons' relationship to the party on whose behalf they appeared at the proceeding (e.g., "attorney for appraisal review board" or "agent for property owner"), and a copy of any legally required written authorization for such persons' appearance in a representative capacity (e.g., written designation of agent pursuant to Tax Code, §1.111);
- (6) a description of the property subject to the protest or challenge;
- (7) the notice of protest, challenge petition, or other document that gave rise to the proceeding and any written motions submitted to the board;
- (8) all affidavits signed by the appraisal review board members in accordance with Tax Code, §41.66(f)-(g);
- (9) an audio recording of testimony presented during the proceeding or, if no audio recording is made, a written summary of the testimony presented during the proceeding;
- (10) all documentary and physical evidence, including all affidavits, offered and/or submitted by the parties to the board for consideration at the proceeding;
- (11) the name and resident address of every witness and confirmation that each witness testified under oath;
- (12) a notation of any formal motions made and the rulings made thereon;
- (13) all written requests for subpoenas, copies of all subpoenas issued, all responses made in response to subpoenas issued, and records indicating compliance with the requirements of Tax Code, §41.61;
- (14) all records pertaining to service and enforcement pursuant to Tax Code, §41.62;
- (15) all records pertaining to compensation for subpoenaed witnesses and records indicating compliance with the requirements of Tax Code, §41.63;
- (16) the final, written orders of the board;
- (17) notations of the date of the final, written order(s) and the date each notice of issuance of order is placed in the mail; and
- (18) all notices pertaining to the protest or challenge received by the board pursuant to Tax Code, §42.06.

**Source Note:** The provisions of this §9.803 adopted to be effective February 3, 1998, 23 TexReg 798; amended to be effective May 16, 2010, 35 TexReg 3650

### 9.804. Arbitration of Appraisal Review Board Determinations

- (a) Definitions and instructions. The following words and terms, when used in this subchapter, shall have the following meanings and are subject to the stated instructions and provisions.
  - (1) Owner--A person or entity having legal title to property. It does not include lessees who have the right to protest property valuations before county appraisal review boards.
  - (2) Agent--An individual for whom written authorization has been granted in accordance with the terms of this subsection and includes the following: an attorney licensed by the State of Texas; a real estate broker or salesperson licensed under Occupations Code, Chapter 1101; a real estate appraiser licensed or certified under Occupations Code, Chapter 1103; an appraisal district employee registered under Occupations Code, Chapter 1151, or an appraisal district contractor; a property tax consultant registered under Occupations Code, Chapter 1152; or a certified public accountant certified under Occupations Code, Chapter 901. An agent, other than an attorney, may

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not take any action relating to binding arbitration on behalf of an owner without a completed authorization form prescribed by the comptroller. The authorization form must be signed by the owner and specify the actions that the agent is authorized to take on behalf of the owner with respect to binding arbitration. Authorized actions that must be identified on the form include whether or not the agent has the authority to sign the request for binding arbitration, whether or not the agent has the authority to receive deposit refunds, and whether or not the agent has the authority to represent the owner in the arbitration proceeding. The authorization must identify as an agent a specific individual and identify the agent's license or certificate number and applicable licensing board pertaining to the license or certificate under which the agent is qualified to represent the owner pursuant to Tax Code, §41A.08. An authorization identifying a business entity is not valid; identification of an individual meeting the qualifications of Tax Code, §41A.08 is required. If an owner authorizes an agent to receive deposit refunds, the authorization must include the agent's social security number, federal tax identification number, or Texas state tax identification number. If the owner has no agent, all correspondence from the comptroller regarding the arbitration will be sent to the owner. If the owner has authorized an agent to receive deposit refunds as provided in this section, all correspondence from the comptroller regarding the arbitration will be sent to the authorized agent. In order for an agent to represent an appraisal district, other than an attorney or an employee of the appraisal district, a written statement signed by the chief appraiser authorizing the agent to represent the district in the arbitration proceedings shall be submitted in writing to the property owner and the arbitrator at or before the time of the arbitration proceeding.

- (3) Binding arbitration--A forum in which each party to a dispute presents the position of the party before an impartial third party who is appointed by the comptroller as provided by Tax Code, Chapter 41A, and who renders a specific award that is enforceable in law and may only be appealed as provided by Civil Practices and Remedies Code, §171.088, for purposes of vacating an award.
- (4) Appraised value--Has the meaning included in Tax Code, §1.04(8).
- (5) Market value--Has the meaning included in Tax Code, §1.04(7).
- (6) Appraisal district--Has the meaning included in Tax Code, §6.01.
- (7) Comptroller--The Comptroller of Public Accounts of the State of Texas.

(b) Request for Arbitration.

- (1) The appraisal review board of an appraisal district shall include a notice of the owner's right to binding arbitration and a copy of the request for binding arbitration form prescribed by the comptroller with the notice of issuance and the order determining a protest filed pursuant to Tax Code, §41.41(a)(1) or (2) concerning the appraised or market value of property if the value determined by the order is \$1 million or less or if the property qualifies as the owner's residence homestead under Tax Code, §11.13.
- (2) An owner may appeal through binding arbitration an appraisal review board order determining a protest filed pursuant to Tax Code, §41.41(a)(1) or (2) concerning the appraised or market value of property if the value determined by the order is \$1 million or less or if the property qualifies as the owner's residence homestead under Tax Code, §11.13. A motion for correction of an appraisal roll, a protest concerning the qualification of property for exemption or special appraisal, or any other issue not specified in Tax Code, §41.41(a)(1) or (2) cannot be appealed through binding arbitration.
- (3) A request for binding arbitration must be made on the form prescribed by the comptroller and signed by an owner or agent. If an agent files a request for binding arbitration, a written authorization signed by the owner as described in this section that specifically authorizes the agent to file the request must be attached to the request for binding arbitration. Failure to attach a complete authorization disqualifies the agent from requesting the arbitration. The request for binding arbitration form must be filed with the appraisal district responsible for appraising the property not later than the 45th calendar day after the date the owner receives the order determining protest from the appraisal review board as evidenced by certified mail receipt. A deposit in the amount provided by Tax Code, §41A.03 in the form of a money order or a check issued and guaranteed by a banking institution, such as a cashier's or teller's check, payable to the Comptroller of Public Accounts must accompany the request for binding arbitration. Personal check, cash, or other form of payment shall not be accepted. The request for binding arbitration with the required deposit and, if applicable, the agent authorization form must be timely submitted to the appraisal district by hand delivery, by certified first-class mail, or as provided by Tax Code, §1.08 or Tax Code, §1.085.
- (4) The appraisal district shall reject a request for binding arbitration if the owner or agent fails to attach the required deposit in the manner required by this section. In such event, the appraisal district shall return the request for



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binding arbitration with a notification of the rejection to the owner or agent by regular first-class mail or other form of delivery requested in writing by the owner or agent.

- (5) The chief appraiser of the appraisal district must submit requests for binding arbitration with the required deposits to the comptroller not later than the 10th calendar day after the date the appraisal district receives the requests. The chief appraiser must assign an arbitration number to each request in accordance with the procedures and forms developed by the comptroller. The chief appraiser must certify receipt of the request and state in the certification whether or not the request was timely filed; the request was made on the form prescribed by the comptroller; the deposit was submitted according to this section; and any other information required by the comptroller. In addition, the chief appraiser must submit to the comptroller with each request a copy of the order determining protest or, in the case of an appeal relating to contiguous properties pursuant to Tax Code, §41A.03, a copy of each order determining protest. The chief appraiser must submit the requests for arbitration to the comptroller by hand delivery or certified first-class mail, and must simultaneously deliver a copy of the submission to the owner by regular first-class mail.
- (6) Failure by the owner to timely file the request for arbitration and the required deposit with the appraisal district shall result in the denial of the request by the comptroller. Failure by the owner to pay taxes on the property subject to the appeal in an amount equal to the amount of taxes due on the portion of the taxable value of the property that is not in dispute before the delinquency date shall result in the denial of the request for arbitration by the comptroller. If the property owner or agent did not file a protest pursuant to Tax Code, §41.41(a)(1) or (2) concerning the appraised or market value of property determined by the appraisal review board to be valued at \$1 million or less or property that qualifies as the owner's residence homestead under Tax Code, §11.13, the comptroller shall deny the request for binding arbitration. If the property owner or agent filed an appeal in district court concerning the property subject to a request for binding arbitration, the comptroller shall deny the request. Failure by the owner to provide all information required by the comptroller's prescribed form, including but not limited to the signature of the owner or agent and the written authorization of the owner designating an agent, may result in the denial of the request by the comptroller if the information is not provided in a timely manner, not to exceed 10 calendar days, after a written or verbal request by the comptroller to the person requesting arbitration to supplement or complete the form has been made.
- (7) On receipt of the request for arbitration, the comptroller shall determine whether to accept the request, deny the request, or request additional information. The comptroller shall notify the owner or agent and appraisal district of the determination. If the comptroller accepts the request, the comptroller shall notify the owner or agent and the appraisal district of the Internet address of the comptroller's website at which the comptroller's registry of arbitrators is maintained and may be accessed. The comptroller shall request in the notice that the parties attempt to select an arbitrator from the registry of arbitrators. The notice shall be delivered electronically, by facsimile transmission, or by regular first-class mail. If requested by the owner or appraisal district, the comptroller shall deliver promptly a copy of the registry of arbitrators in paper form to the owner or the appraisal district by regular first-class mail.

(c) Registry of Arbitrators.

- (1) A person seeking to be listed in the comptroller's registry of arbitrators must submit a completed application on a form provided by the comptroller providing all requested information and documentation and affirming that the applicant meets the qualifications set forth in Tax Code, §41A.06. By submitting the application and any documentation required on the prescribed form, the applicant attests that he or she has all of the qualifications required under Tax Code, §41A.06, agrees to conduct an arbitration for a fee that is not more than 90% of the amount of the arbitration deposit, and agrees to promptly notify the comptroller of any change in the applicant's qualifications. The attestation shall remain in effect until the renewal date of the applicant's license or certification under which the applicant was qualified, pursuant to Tax Code, §41A.06, to be included in the registry. For an arbitrator to continue to be included in the registry, a new application must be submitted on or before the earlier of each renewal date of the applicant's license or certification under which the applicant was qualified, pursuant to Tax Code, §41A.06, or the second anniversary of the date the arbitrator was initially added to or subsequently renewed on the registry.
- (2) A person applying for inclusion in the comptroller's registry of arbitrators must agree to conduct arbitration hearings as required by Tax Code, Chapter 41A, and in accordance with the limitations indicated in the application and by this section. The application must state that false statements provided by applicants may result in misdemeanor or felony convictions. The application must also state that the comptroller may remove a person from the registry of arbitrators at any time due to failure to meet statutory qualifications or to comply with requirements of this section, or for good cause as determined by the comptroller.

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- (3) The comptroller shall deny an application if it is determined that the applicant does not qualify for listing in the arbitration registry or if inclusion of the applicant in the arbitration registry would otherwise not be in the interest of impartial arbitration proceedings. A person is ineligible to be listed as an arbitrator if the person is a member of a board of directors of any appraisal district or an appraisal review board in the state; an employee, contractor, or officer of any appraisal district in the state; a current employee of the comptroller; or a member of a governing body, officer, or employee of any taxing unit in the state.
  - (4) If the application is approved, the applicant's name and other pertinent information provided in the application and the applicant's professional resume or vitae shall be added to the comptroller's registry of arbitrators. The registry may include the arbitrator's experience and qualifications, the geographic areas in which the arbitrator agrees to serve, and other information useful for property owners and county appraisal district personnel in selecting an arbitrator. The arbitrator may be required to conduct arbitrations regionally in order to be included in the registry.
  - (5) The comptroller must notify the applicant of the approval or denial of the application or the removal of the arbitrator from the registry as soon as practicable and must provide a brief explanation of the reasons for denial. The applicant may provide a written statement of why the denial should be reconsidered by the comptroller within 30 calendar days of the applicant receiving the denial. The comptroller may approve the application if the applicant provides information to justify the approval. If the application is subsequently approved, the comptroller shall notify the applicant as soon as practicable.
  - (6) Each person who is listed as an arbitrator in the comptroller's registry must report to the comptroller in writing any material change in the information provided in the application within 30 calendar days of the change. A material change includes, but is not limited to a change in address, telephone number, e-mail address, website, loss of required licensure, incapacity, or other condition that would prevent the person from professionally performing arbitration duties. Failure of the arbitrator to report a material change may result in the immediate removal of the arbitrator from the current registry upon its discovery and the denial of future applications for inclusion in the registry. An arbitrator's failure to report a material change as required by this paragraph shall not affect the determinations and awards made by the arbitrator during the period that the arbitrator is listed in the registry.
  - (7) Owners, agents, and appraisal districts are responsible for verifying the accuracy of the information provided in the arbitrator registry in attempting to agree on an arbitrator. If the information is found to be inaccurate by the owners, agents, or appraisal districts, such fact must be communicated to the comptroller as soon as practicable in order that the registry may be corrected. Inclusion of an arbitrator in the comptroller's registry is not and shall not be construed as a representation by the comptroller that all information provided is true and correct and shall not be construed or represented as a professional endorsement of the arbitrator's qualifications to conduct arbitration proceedings.
  - (8) The registry shall be maintained on the comptroller's Internet website or in non-electronic form and will be updated within 30 calendar days of the date that arbitrator applications are approved or updated and processed by the comptroller.

(d) Appointment of Arbitrators.

- (1) The appraisal district shall notify the comptroller not later than the 20th calendar day after the date the parties receive a copy of the registry or the notice of the comptroller's Internet address of the registry website, whichever is later, that an arbitrator was selected by the parties by agreement or that an agreement could not be reached.
- (2) The comptroller shall promptly appoint an arbitrator selected by agreement of the owner or agent and the appraisal district. The notification of the appointment must be transmitted by regular first-class mail to the arbitrator. The arbitrator shall notify the owner or agent and the appraisal district promptly of the appointment.
- (3) If an appraisal district notifies the comptroller that the owner or agent and the appraisal district have been unable to agree to an arbitrator, the comptroller shall appoint an arbitrator from the registry within 20 business days from such notification and inform the arbitrator by regular first-class mail. The arbitrator shall notify the owner or agent and the appraisal district promptly of the appointment.
- (4) If the appraisal district fails to notify the comptroller of the selection of an arbitrator or the failure to agree to an arbitrator timely, the comptroller shall appoint an arbitrator from the registry within 20 business days of the date the comptroller becomes aware of the failure of the appraisal district and owner or agent to comply with the requirements of law. The arbitrator shall be notified of the appointment by the comptroller by regular first-class mail. The arbitrator shall notify the owner or agent and the appraisal district promptly of the appointment.

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- (5) The appointment of an arbitrator by the comptroller shall be made according to preferences included in arbitrator applications geographically and by random selection.
  - (6) An arbitrator may not accept an appointment and may not continue an arbitration after appointment if the arbitrator has an interest in the outcome of the arbitration or if the arbitrator is related to the owner, an officer, employee, or contractor of the appraisal district, or a member of the appraisal district board of directors or appraisal review board by affinity within the second degree or by consanguinity within the third degree as determined under Government Code, Chapter 573. The owner or appraisal district may request a substitute arbitrator before the arbitration proceedings begin upon a showing, supported by competent evidence, that the assigned arbitrator has an interest in the outcome of the arbitration or that the arbitrator is related to the owner, an officer, employee, or contractor of the appraisal district, or a member of the appraisal district board of directors or appraisal review board by affinity within the second degree or by consanguinity within the third degree as determined under Government Code, Chapter 573.
  - (7) The comptroller must be notified, in writing, within 5 business days of the arbitrator's receipt of the appointment that the arbitrator is unable or unwilling to conduct the arbitration because of a conflict of interest described by paragraph (6) of this subsection, or for any other reason; or that the appointment is accepted. The notification must be delivered to the comptroller electronically, by facsimile transmission, or by regular first-class mail. If the comptroller does not receive from the arbitrator written notification of acceptance or refusal of the appointment within 5 business days, the comptroller shall presume that the appointment has been refused. If the arbitrator refuses the appointment, the comptroller shall appoint a substitute arbitrator from the registry within 10 business days of the receipt, or the determination pursuant to this subsection, of the arbitrator's refusal. The process of appointment of arbitrators pursuant to this subsection shall continue in this fashion until an acceptance is obtained. A refusal to accept an arbitration appointment may be considered by the comptroller in evaluating subsequent requests for arbitration and appointments.

(e) Provision of Arbitration Services.

- (1) The arbitrator may require written agreements with the appraisal district and the owner concerning provision of arbitration services, including but not limited to the time, place, and manner of conducting and concluding the arbitration. Unless the property owner and the appraisal district both agree to arbitration by submission of written documents, the arbitration will be conducted in person or by teleconference. An arbitrator may require that the arbitration be conducted in person. If the arbitration is conducted in person, the proceeding must be held in the county where the appraisal district office is located and from which the appraisal review board order determining protest was issued, unless the parties agree to another location. The arbitrator must give notice and conduct arbitration proceedings in the manner provided by Civil Practice and Remedies Code, §§171.044, 171.045, 171.046, 171.047, 171.049, 171.050, and 171.051, and shall continue a proceeding if both parties agree to the continuance and may continue a proceeding for reasonable cause. The arbitrator must, by written procedures delivered in advance to the parties, require that the parties produce and exchange evidence prior to the hearing.
- (2) The arbitrator shall decide to what extent the arbitration hearing procedures are formal or informal and shall deliver written procedures to be used at the hearing. The parties shall be allowed to record the proceedings by audiotape, but may record them by videotape only with the consent of the arbitrator.
- (3) The parties to an arbitration proceeding may represent themselves or may be represented by an agent as provided by Tax Code, §41A.08 with timely, written authorization as provided in this section. If an agent was not identified in the request for binding arbitration for purposes of representing an owner in the arbitration proceeding, a written authorization from the owner may be presented at the time of the arbitration proceeding in order for the agent to represent the owner at the proceeding. Such written authorization must be made on the comptroller-prescribed agent authorization form, must be signed by the owner, and may provide only for the agent to represent the owner at the arbitration proceeding. Any deposit refund will be processed in accordance with the original request for binding arbitration. No written authorization is required for an attorney to represent a party at an arbitration proceeding.
- (4) The confidentiality provisions of Tax Code, §22.27, concerning information provided to an appraisal office, apply to information provided to arbitrators. The information may not be disclosed except as provided by law.
- (5) The arbitrator shall not communicate with the owner, the appraisal district, or their agents, nor shall the owner, the appraisal district, or their agents communicate with the arbitrator, prior to the arbitration hearing concerning specific evidence, argument, facts, merits, or the property subject to arbitration. Such communications may be grounds for the removal of the arbitrator from the comptroller's registry of arbitrators.

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- (6) The arbitrator shall dismiss a pending arbitration action with prejudice if it is determined during the proceedings that taxes on the property subject to the appeal are delinquent; that the appraisal review board order(s) appealed did not determine a protest filed pursuant to Tax Code, §41.41(a)(1) or (2) concerning the appraised or market value of property determined by the order at \$1 million or less or of property that qualifies as the owner's residence homestead under Tax Code, §11.13; that the request for arbitration was not timely filed; or if the owner files an appeal with the district court under Tax Code, Chapter 42, concerning the value of property at issue in the pending arbitration. When the arbitration involves contiguous tracts of land pursuant to Tax Code, §41A.03(a-1), each appraisal review board order appealed must be a determination of a protest filed pursuant to Tax Code, §41.41(a)(1) concerning the appraised or market value of property determined by the order at \$1 million or less or of property that qualifies as the owner's residence homestead under Tax Code, §11.13; however, the combined total value of all orders appealed may exceed \$1 million, whether or not the appeal involves a property that qualifies as owner's residence homestead. When the arbitration involves contiguous tracts of land pursuant to Tax Code, §41A.03(a-1), the arbitrator shall dismiss a pending arbitration action with prejudice if it is determined during the proceedings that taxes on any property subject to the appeal are delinquent; that any of the appraisal review board orders appealed did not determine a protest filed pursuant to Tax Code, §41.41(a)(1) or (2) concerning the appraised or market value of property determined by the order at \$1 million or less or of property that qualifies as the owner's residence homestead under Tax Code, §11.13; that the request for arbitration was not timely filed; or if the owner files an appeal with the district court under Tax Code, Chapter 42, concerning the value of any property at issue in the pending arbitration.
  - (7) The arbitrator must complete an arbitration proceeding in a timely manner and will make every effort to complete the proceeding within 120 days from the acceptance of the appointment by the arbitrator. Failure to comply with the timely completion of arbitration proceedings may result in the removal of the arbitrator from the comptroller's registry of arbitrators.

(f) Arbitration Determinations and Awards.

- (1) The arbitrator shall determine the appraised or market value of the property that is the subject of the arbitration.
- (2) If the arbitrator makes a determination of the appraised value of property to be valued under Tax Code, Chapter 23, Subchapters B, C, D, E, or H, these statutory provisions and the comptroller's rules must be followed in making the appraised value determination.
- (3) If the arbitrator makes a determination of the value of a residence homestead that has an appraised value that is less than its market value due to the appraised value limitation required by Tax Code, §23.23, the appraised value may not be changed unless:
  - (A) the arbitrator determines that the formula for calculating the appraised value of the property under Tax Code, §23.23, was incorrectly applied and the change correctly applies the formula;
  - (B) the calculation of the appraised value of the property reflected in the appraisal review board order includes an amount attributable to new improvements and the change reflects the arbitrator's determination of the value contributed by the new improvements; or
  - (C) the arbitrator determines that the market value of the property is less than the appraised value indicated on the appraisal review board order and the change reduces the appraised value to the market value determined by the arbitrator.
- (4) Within 20 calendar days of the conclusion of the arbitration hearing, the arbitrator shall make a final determination and award on the form prescribed by the comptroller and signed by the arbitrator. A copy of the determination and award form shall be delivered to the owner or agent and the appraisal district by facsimile transmission or regular first-class mail, as requested by the parties, and to the comptroller by regular first-class mail.
- (5) All post-appeal administrative procedures provided by Tax Code, Chapter 42, Subchapter C, shall apply to arbitration awards.

(g) Payment of Arbitrators' Fees and Refund of Property Owner Deposit.

- (1) Deposits submitted with requests for arbitration by owners or agents, and submitted by appraisal districts to the comptroller, shall be deposited into individual accounts for each owner and according to assigned arbitration numbers.
- (2) The provisions of Government Code, Chapter 2251, shall apply to the payment of arbitrator fees by the comptroller, if applicable, beginning on the date that the comptroller receives a copy of the arbitrator's determination and award by regular first-class mail.

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- (3) Payment of arbitrators' fees and arbitration deposit refunds will be processed in accordance with the provisions of Tax Code, §41A.09. An award that determines an appraised or market value at an amount exactly one-half of the difference in value between the property owner's opinion of value as stated in the request for binding arbitration and the value determined by the appraisal review board is deemed to be nearer the appraisal review board's determination of value. The comptroller will retain 10% of each deposit for administrative costs.
  - (4) If an arbitrator dismisses a pending arbitration as provided by subsection (e)(6) of this section, the comptroller shall refund to the owner or agent the deposit, less the 10% retained by the comptroller for administrative costs. In such event, the arbitrator must seek payment from the owner or agent for the services rendered prior to the dismissal of the proceeding.
  - (5) An owner or agent may withdraw a request for arbitration only by written notice delivered to the appraisal district, the comptroller, and the arbitrator, if one has been appointed. If the owner or agent withdraws a request for arbitration in writing 14 or more calendar days before the arbitration proceeding is first scheduled, the comptroller shall refund to the owner or agent the deposit, less the 10% retained by the comptroller for administrative costs. If the owner or agent withdraws a request for arbitration less than 14 calendar days before the arbitration proceeding is first scheduled, the comptroller shall pay the fee, if any, charged by the arbitrator. The fee will be paid from the owner's deposit and mailed to the address shown on the arbitrator's registry application. If the arbitrator's fee is less than 90% of the owner's deposit, the comptroller shall refund to the owner or agent any remaining deposit, less 10% retained by the comptroller for administrative costs. If the arbitrator's fee is 90% of the owner's deposit, the comptroller shall retain 10% of the deposit for administrative costs and no refund will be paid.
  - (6) If the comptroller denies a request for arbitration as provided by subsection (b)(6) of this section, the comptroller shall refund to the owner or agent the deposit, less the 10% retained by the comptroller for administrative costs.
  - (7) A refund to an owner or agent or a payment to an arbitrator is subject to the provisions of Government Code, §403.055. The comptroller's form for request for binding arbitration will require identification of the social security number or tax identification number of the individual authorized to receive deposit refunds. For an owner, the owner is required to provide the owner's social security number, federal tax identification number, or Texas state tax identification number. If an agent has been authorized by the owner to receive deposit refunds, the agent is required to provide the agent's social security number, federal tax identification number, or Texas state tax identification number. Deposit refunds will not be processed without the required identification. The comptroller shall not issue a warrant for payment to a person who is indebted to the state or has a tax delinquency owing to the state until the indebtedness or delinquency has been fully satisfied.
  - (h) Pending Arbitrations. No party to an arbitration including, but not limited to, a property owner, a property owner's agent, an appraisal district, or an arbitrator, may seek the comptroller's advice or direction on a matter relating to a pending arbitration under Tax Code, Chapter 41A. An arbitration is pending from the date a request for arbitration is filed and continues until delivery of the arbitrator's final award pursuant to Tax Code, §41A.09. The prohibition in this subsection shall not apply to administrative matters assigned to the comptroller, such as processing of arbitration requests and deposits.
  - (i) Forms Adopted by Reference. The Comptroller of Public Accounts adopts by reference the Request for Binding Arbitration form and the Arbitration Determination and Award form. Copies of these forms can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528.
  - (j) Other Forms. All other comptroller forms applicable to this section may be revised at the discretion of the comptroller. The comptroller may also prescribe additional forms for the administration of binding arbitration. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.804 adopted to be effective December 25, 2005, 30 TexReg 8441; amended to be effective September 29, 2010, 35 TexReg 8764; amended to be effective September 26, 2013, 38 TexReg 6225

## **SUBCHAPTER E. TAX OFFICE ADMINISTRATION**

### **9.1001. Current and Delinquent Tax Receipts and Temporary Tax Receipts**

- (a) All offices collecting ad valorem taxes shall prepare and issue current and delinquent tax receipts, as well as temporary tax receipts, as applicable, and, as requested, for the payment of current and delinquent taxes.



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- (b) Current tax receipts shall include the following items of information:
- (1) the name and address of the collecting office and the name of the taxing unit(s) for which that office collects on that property;
  - (2) the name and address of the property owner and/or agent;
  - (3) the description of the property as shown on the tax roll;
  - (4) the tax roll account number of the property and, if different, the appraisal roll account number of the property;
  - (5) the year for which the taxes are paid;
  - (6) the taxable value of the property;
  - (7) the tax rate imposed by each taxing unit taxing the property;
  - (8) the amount of taxes paid, including a breakdown of taxes collected for each taxing unit;
  - (9) the date the taxes are paid;
  - (10) in cases of split payment, indication that the amount paid is a split payment; and
  - (11) a statement that if a request by a property owner or agent is made before the current year taxes have been calculated, no such calculation is available for inclusion on the receipt.
- (c) Delinquent tax receipts shall include the following items of information:
- (1) each item of information specified in subsection (b)(1)–(9) of this section, except that the information specified in subsection (b)(6) and (7) of this section shall be shown for each year for which the taxes are paid; and
  - (2) the amount of penalty and interest collected.
- (d) At the option of the collecting office, more than one year of delinquent taxes paid may appear on one delinquent tax receipt.
- (e) Temporary tax receipts shall be issued at the request of the taxpayer for the full or partial amount of taxes paid when appraisal review protests or judicial appeals are pending and must state that the receipts are temporary pending the determination of the protests or appeals. Temporary tax receipts shall be issued at the request of the taxpayer if a collector accepts partial payments of taxes as provided by law and must state that the payments are partial without providing the amount of taxes still due. Temporary tax receipts shall be issued to the taxpayer without the necessity of a taxpayer request when conditional tax payments are made pursuant to Tax Code, §31.071.
- (f) Current, temporary, and delinquent tax receipts substantially equivalent to that required in this section are deemed to be in compliance if challenged by a taxpayer or a governmental entity.

**Source Note:** The provisions of this §9.1001 adopted to be effective July 17, 1992, 17 TexReg 4808; amended to be effective November 9, 2005, 30 TexReg 7228

## **9.1002. Posting of Tax Rates on County's Internet Website**

- (a) The information required to be posted by the county assessor-collector on the county's internet website pursuant to Tax Code, §26.16 shall be posted on the website by means of a prominently featured hyperlink on the home page of the website entitled "Tax Rate Information" that links to either a list of all taxing units described in §26.16(b) or a single table that includes all taxing units described in §26.16(b). If the "Tax Rate Information" hyperlink links to a list of all taxing units described in §26.16(b), the taxing units shall be presented by individual taxing unit name listed in alphabetical order; each taxing unit name must be a hyperlink that links to the table of information for the taxing unit and text required by §26.16; and within the table for each taxing unit, the information required by §26.16(a) must be set forth by tax year with information for the most recent tax year presented first. If the "Tax Rate Information" hyperlink links to a single table that includes the information and text required by §26.16 for all taxing units described in §26.16(b), the taxing units within the table shall be presented by individual taxing unit name in alphabetical order and the information required by §26.16(a) must be set forth by tax year with information for the most recent tax year presented first.
- (b) A county assessor-collector may present tax rate information in a manner or format other than that set forth in subsection (a) of this section to provide additional resources for taxpayers, but any such presentation shall be in addition to, not in lieu of, the presentation set forth in subsection (a) of this section.

**Source Note:** The provisions of this §9.1002 adopted to be effective December 4, 2011, 36 TexReg 8039

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## SUBCHAPTER F. LIMITATION ON APPRAISED VALUE ON CERTAIN QUALIFIED PROPERTY

### 9.1051. Definitions

The following phrases, words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Words defined in Tax Code, Chapter 313 and not defined in this subchapter shall have the meanings provided by Tax Code, Chapter 313.

- (1) Agreement--The written agreement between the governing body of a school district and the approved applicant to implement a limitation on the appraised value for school district maintenance and operations ad valorem property tax purposes on an entity's qualified property, required by Tax Code, §313.027(d).
- (2) Applicant--An entity that has applied for a limitation on appraised value for school district maintenance and operations ad valorem property tax purposes on the entity's property as provided by Tax Code, Chapter 313.
- (3) Application--An application for limitation of appraised value limitation for school district maintenance and operations ad valorem property tax purposes on an entity's qualified property on the form adopted by reference in §9.1052 of this title (relating to Forms), the schedules attached thereto, and the documentation submitted by an entity for the purpose of obtaining an agreement for a limitation on appraised value from a school district.
- (4) Application amendment--Information submitted by an applicant intended to be considered as part of or in support of the application that amends by replacing information that was previously submitted by applicant.
- (5) Application supplement--Information submitted by an applicant intended to be considered as part of or in support of the application that has not been previously submitted.
- (6) Approved applicant--An applicant whose application has been approved by a school district for a limitation on appraised value agreement according to the provisions of Tax Code, Chapter 313, including any assignees of that applicant.
- (7) Application review start date--The later date of either the date on which the school district issues its written notice that an applicant has submitted a completed application or the date on which the comptroller issues its written notice that an applicant has submitted a completed application.
- (8) Appraisal district--The county appraisal district that would appraise the property which is the subject of an application.
- (9) Appraised value--The value of property as defined by Tax Code, §1.04(8).
- (10) Completed application--An application in the form and number and containing all the information required pursuant to §9.1053 of this title (relating to Entity Requesting Agreement to Limit Appraised Value) that has been determined by the school district and the comptroller to include all minimum requirements for consideration.
- (11) Comptroller--The Texas Comptroller of Public Accounts or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the comptroller.
- (12) Entity--Any entity upon which a tax is imposed by Tax Code, §171.001 including a combined group as defined by Tax Code, §171.0001(7) or members of a combined group, provided however, an entity as defined herein does not include a sole proprietorship, partnership or limited liability partnership.
- (13) Economic Development and Analysis Division or ED&A--The Economic Development Division and Analysis Division of the comptroller's office, or the division of the comptroller's office responsible for the administration of Tax Code, Chapter 313, acting through the designated division director or a representative thereof.
- (14) Non-qualifying job--A position of employment to perform work:
  - (A) that includes at a minimum the following requirements:
    - (i) that did not exist on the land prior to the application review start date;
    - (ii) that is based on the qualified property;
    - (iii) that is in direct support of activity identified in Tax Code, §313.024(b);
    - (iv) for at least 1,600 hours a year; and
    - (v) over which the applicant has significant degree of control of:
      - (I) the creation of the job;

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- (II) the job description;
  - (III) the job characteristics or performance of the job through either a business, contractual or vendor relationship; and
  - (B) is not a qualifying job as that term is defined in Tax Code, §313.021(b).
- (15) Qualified investment--Property that meets the requirements of Tax Code, §313.021(1).
- (16) Qualified property--Land, new building, or new improvement erected or affixed to the land after the application review start date, or eligible tangible personal property first placed in service after the application review start date that:
- (A) meets the requirements of Tax Code, §313.021(2), and that is used either as an integral part, or as a necessary auxiliary part, in manufacturing, research and development, a clean coal project, an advanced clean energy project, renewable energy electric generation, electric power generation using integrated gasification combined cycle technology, nuclear electric power generation, a Texas Priority Project, or a computer center;
  - (B) is clearly distinguished from any existing property and clearly distinguished from any proposed property that is not a new improvement;
  - (C) is separate from, and not a component of, any existing property;
  - (D) if buildings or improvements, did not exist before the application review start date or if tangible personal property, was first placed in service after the application review start date;
  - (E) is not used to renovate, refurbish, upgrade, maintain, modify, improve, or functionally replace existing buildings or existing improvements;
  - (F) does not replace or modify existing buildings other than expansion of an existing building; and
  - (G) is not used solely for the transportation of product prior to the commencement, or subsequent to the completion, of an applicable qualifying activity described in subparagraph (A) of this paragraph.
- (17) School district--A school district that has received an application for a limitation on appraised value pursuant to Tax Code, Chapter 313 or the designated representative of the school district acting on behalf of the school district.
- (18) SOAH--State Office of Administrative Hearings.
- (19) Substantive document--A document or other information or data in electronic media determined by the comptroller to substantially involve or include information or data significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Tax Code, Chapter 313. The term includes, but is not limited to, any application requesting a limitation on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between applicant and the school district and any subsequent amendments or assignments, any school district written finding or report filed with the comptroller as required under this subchapter, and any completed Annual Eligibility Report (Form 50-772A) submitted to the comptroller.
- (20) Agreement holder--An entity that has executed an agreement with a school district.
- (21) Average weekly wage for manufacturing jobs--Either the average weekly wage:
- (A) for all jobs primarily engaged in activities described in Sectors 31 - 33 of the 2007 North American Industry Classification System in a county as identified by the Texas Workforce Commission's Quarterly Employment and Wages (QCEW) webpage at <http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Industry>; or
  - (B) for all manufacturing jobs, as determined by data published annually by the Texas Workforce Commission for the purposes of Tax Code, Chapter 313 for each Council of Government Region, based on Bureau of Labor Statistics, Texas Occupational Employment and Wages (OES) data, as it is posted at <http://www.tracer2.com/admin/uploadedPublications/COGWages.pdf>.
- (22) Average weekly wage for non-qualifying jobs--The average weekly wage as identified by the Texas Workforce Commission Quarterly Employment and Wages (QCEW) average weekly wages for all private industries for the most recent four quarterly periods for which data is at the time that an application is deemed complete, as it is posted at <http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Industry>.
- (23) First placed in service--The first use of the property by the agreement holder.



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- (24) New improvement--A building, structure, or fixture that, after the application review start date:
- (A) is a discrete unit of property erected on or affixed to land eligible to be qualified property; and
  - (B) is not erected or affixed as part of maintenance, renovation, refurbishment, improvement, modification, or upgrade of existing property, nor is newly added or proposed to be added property functionally replacing existing property, provided however that a proposed improvement may be considered a new improvement if it is an addition to an existing building that will contain new tangible personal property that did not exist before the application review start date.
- (25) Per capita income--Per capita money income in the past 12 months as determined by the United States Census Bureau and reported at its website <http://quickfacts.census.gov/qfd/states/48000.html>.
- (26) Strategic investment area--An area that is:
- (A) a county within this state with unemployment above the state average and per capita income below the state average;
  - (B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community; or
  - (C) a defense economic readjustment zone designated under Government Code, Chapter 2310.
- (27) Texas Economic Development Act Agreement--The form, adopted by reference in §9.1052 of this title, which provides a template for the terms of an agreement to implement a limitation on appraised value on property within a school district and that has the title Agreement For Limitation On Appraised Value Of Property For School District Maintenance And Operations Taxes.
- (28) Texas Priority Project--A project on which the applicant commits to place in service qualified investment of more than \$1 billion during the qualifying time period, based on the comptroller review of the application submitted by the school district.
- (29) Unemployment--The most recent calendar year unemployment rate, not seasonally adjusted, as determined by the Labor Market & Career Information Department (LMCI) of the Texas Workforce Commission and reported at its website <http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Labforce>.

**Source Note:** The provisions of this §9.1051 adopted to be effective June 22, 2010, 35 TexReg 5352; amended to be effective June 2, 2014, 39 TexReg 4259

## 9.1052. Forms

- (a) The comptroller adopts by reference the following forms:
- (1) Application for Appraised Value Limitation on Qualified Property (Form 50-296A);
  - (2) Annual Eligibility Report (Form 50-772A);
  - (3) Biennial Progress Report for Texas Economic Development Act (Form 50-773A);
  - (4) Job Creation Compliance Report (Form 50-825);
  - (5) Biennial School District Cost Data Request (CDR) (Form 50-287); and
  - (6) Texas Economic Development Act Agreement (Form 50-286).
- (b) Copies of the forms are available for inspection at the office of the Texas Register or may be obtained from the Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711-3528. The forms may be viewed or downloaded from the comptroller's web site, at [comptroller.texas.gov/taxinfo/proptax/hb1200/index.html](http://comptroller.texas.gov/taxinfo/proptax/hb1200/index.html).<sup>\*</sup> Copies may also be requested by calling our toll-free number, (800) 252-9121.
- (c) In special circumstances, a school district may obtain prior approval in writing from the comptroller to use an application form that requires additional information, or sets out the required information in different language or sequence than that which this section requires.

**Source Note:** The provisions of this §9.1052 adopted to be effective January 9, 2008, 33 TexReg 273; amended to be effective June 22, 2010, 35 TexReg 5354; amended to be effective June 2, 2014, 39 TexReg 4259

**\*NOTE:** For clarity purposes, the Web address in the original text of this rule has been replaced with the current Web address from the Comptroller's website which changed effective Jan. 1, 2015. The Web address in the original text of the rule is <http://www.window.state.tx.us/taxinfo/proptax/hb1200/html>, which no longer exists.

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### 9.1053. Entity Requesting Agreement to Limit Appraised Value and Tax Credit

- (a) Initial application contents. To request a limitation on appraised value for school district maintenance and operations ad valorem tax purposes pursuant to Tax Code, Chapter 313, an applicant shall file a completed application with the school district in which the qualified property will be located.

(1) A completed application shall consist of, at a minimum, the following items:

- (A) the comptroller's current application form and Schedules A1, A2, B, C and D attached to the application form with all information boxes filled in with the information on which applicant intends to rely including but not limited to:
- (i) a specific and detailed description of the proposed qualified property to which the appraised value limitation will apply sufficient to clearly distinguish the subject property from property to which the limitation does not apply and to establish that the property meets the criteria of qualified property pursuant to these rules and Tax Code, §313.021(2);
  - (ii) a specific and detailed description of the investment described in Tax Code, §313.021(1) that is proposed to be made in the property subject to the appraised value limitation and sound, good faith estimates of the dollar value of intended investment sufficient to establish that the investment meets minimum criteria for qualified investment pursuant to Tax Code, §313.023 or §313.053 if applicable, during the proposed qualifying time period;
  - (iii) if the land upon which the qualified property will be located contains existing improvements or tangible personal property, a specific and detailed description of the tangible personal property, buildings, or permanent, non-removable building components (including any affixed to or incorporated into real property) on the land that is sufficient to distinguish existing property from the proposed new improvements and any proposed property that is not new improvements which may include maps, surveys, appraisal district values and parcel numbers, inventory lists, property lists, model and serial numbers of existing property, or other information of sufficient detail and description to locate all existing property within the boundaries of the real property which is subject to the agreement; provided however, that the date of appraisal shall be within 15 days of the date the application is received by the school district;
  - (iv) the total number of any jobs related to construction or operation of the facility that the applicant chooses to disclose for the purpose of calculating the economic impact of the project;
  - (v) the total number of qualifying jobs the applicant commits to create and maintain during the full term of the agreement and a schedule which identifies the number of qualifying jobs created and maintained in each year of the agreement;
  - (vi) the wages, salaries, and benefits applicant commits to provide for each qualifying job;
  - (vii) the total number of non-qualifying jobs the applicant estimates it will create and maintain during the full term of the agreement and a schedule which identifies the number of non-qualifying jobs created and maintained in each year of the agreement;
  - (viii) the average wages the applicant estimates it will provide for non-qualifying jobs;
  - (ix) a statement:
    - (I) that for the purposes of this statement, "payments to the school district" include any and all payments or transfers of things of value made to the school district or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value; and
    - (II) as to whether:
      - (-a-) the amount of any and all payments or transfers made to the school district may result in payments that are or are not in compliance with Tax Code, §313.027(i); or
      - (-b-) as to whether the method for determining the amount may result in payments to the school district that are or are not in compliance with Tax Code, §313.027(i); and

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- (x) a description of the real property on which the intended investment will be made, identified additionally by the county appraisal district parcel number;
  - (B) such other written documents containing information on which applicant relies to qualify for and obtain a limitation on appraised value pursuant to Tax Code, Chapter 313;
  - (C) such other written documents containing information reasonably requested by either the school district or the comptroller which shall be provided within 20 days of the date of the request, provided however the applicant may request up to 10 additional days to provide the requested information;
  - (D) information identifying the applicant, and if applicant is a combined group, identifying each such combined group's members that intend to own a direct interest in the property subject to the proposed agreement, by:
    - (i) official name, street address, city, county, state and mailing address, if different from the street address, of the official place of business of the applicant and, if the applicant is a combined group, of each such combined group's members that intend to own a direct interest in the property subject to the proposed agreement;
    - (ii) designation of an authorized representative for the applicant and, if the applicant is a combined group, for each such combined group's members that intend to own a direct interest in the property subject to the proposed agreement; and
    - (iii) for each authorized representative, and if the applicant is a combined group for each such combined group's members that intend to own a direct interest in the property subject to the proposed agreement, provide telephone number, email address, street address, city, county, state, and mailing address if different from the street address;
  - (E) the signature of applicant's authorized representative(s) by which applicant confirms and attests to the truth and accuracy of the information submitted in the application to the best knowledge and belief of applicant and its representative(s);
  - (F) the total application fee required by the school district with which the application will be filed;
  - (G) a statement as to whether or not the project is an expansion of an existing operation on the land which will become qualified property, and if so, a description of the nature of the existing operation, and the nature of the expansion, including an explanation of how the expansion affects or interacts with current operations;
  - (H) a statement specifying the beginning date of the limitation period, which must be January 1 of the first tax year that begins after one of the following:
    - (i) the date of the completed application;
    - (ii) the date of the end of the qualifying time period, provided however that such date will begin no later than the beginning of the limitation period; or
    - (iii) the date commercial operations are to begin at the site of the project;
  - (I) a statement regarding the location and nature of other facilities that the applicant operates in the state, and a detailed description of any such facilities that will provide inputs to or use outputs from the project that is the subject of the application;
  - (J) a detailed description of any state and local incentives for which the applicant intends to apply; and
  - (K) any information that the applicant requests the comptroller to consider in making the determination under Tax Code, §313.026(c)(2) that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in the state, which may include:
    - (i) other locations not in Texas that the applicant considered or is considering for the project;
    - (ii) capital investment and return on investment information in comparison with other alternative investment opportunities; or
    - (iii) information related to the applicant's inputs, transportation and markets.
- (2) The completed application contents shall be provided in the following formats:
- (A) one original hard copy of the completed application in a three ring binder with tabs separating each section of the documents submitted; and

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- (B) an electronically digitized copy, formatted in searchable pdf format or other format acceptable to the comptroller, certified by the applicant as containing the identical information, maps, and schedules as the original hard copy. The digitized copy shall include:
      - (i) schedules A1, A2, B, C, and D in Microsoft Excel format; and
      - (ii) high-resolution maps and graphics (300 dpi or higher).
    - (3) The application shall be submitted in any manner acceptable to the comptroller.
  - (b) Optional application requests. An applicant may include in an application:
    - (1) a request that the school district waive the requirement of Tax Code, §313.021(2)(A)(iv)(b) or §313.051(b), whichever is applicable, to create new jobs. In order for a completed application to include a job waiver request, applicant shall submit:
      - (A) a specific request to waive the job requirement of the applicable Tax Code section included with the application that includes all the minimum requirements set forth in subsection (a) of this section; and
      - (B) separated and clearly marked within the application materials, documentation on which applicant intends to rely that demonstrates that the applicable jobs creation requirement of the applicable Tax Code section exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of applicant that is described in the application; or
    - (2) a request to begin the qualifying time period on a date that is after the date that the application is approved. In order for a completed application to include a qualifying time period deferral request, applicant shall submit:
      - (A) specific information identifying the requested qualifying time period within an application that includes all the minimum requirements set forth in subsection (a) of this section; and
      - (B) all relevant economic information that is related to the impact of the investment during the proposed qualifying time period, the proposed limitation period, and a period of time after the limitation period considered appropriate by the comptroller.
  - (c) Application changes. At the request of the school district or the comptroller, or with the prior approval of the school district and the comptroller, applicant may submit an application amendment or application supplement at any time after the submission of the initial application. In order to be considered as part of the application, the application amendment or supplement shall:
    - (1) be submitted in the same form or schedule and manner as the information was initially submitted or should have been initially submitted;
    - (2) include a date for the submission and a sequential number identifying the number of submissions made by applicant;
    - (3) have the signature of the authorized representative(s) by which applicant confirms and attests to the truth and accuracy of the information submitted in the application amendment or supplement, as applicable, to the best knowledge and belief of applicant and its representative(s); and
    - (4) be submitted before the 120th day after the application was accepted by the school district or within another time period as provided in writing by the comptroller.
  - (d) Authorized representative(s). The person(s) identified in the application as applicant's authorized representative(s) shall serve as the person(s) to whom all correspondence and notifications from the school district and comptroller shall be sent. Notwithstanding subsection (c) of this section, applicant may change its authorized representative(s) if applicant submits to the school district and the comptroller a letter that provides the name of the new authorized representative(s), street and mailing address, telephone number, and official title, if any.
  - (e) Information confidentiality. At the time that applicant submits its application, application amendment, or application supplement, applicant may request that all or parts of such document not be posted on the internet and not otherwise be publicly released. In order to make such request, applicant shall:
    - (1) submit a written request that:
      - (A) specifically lists each document or portion of document and each entry in any form prescribed by the comptroller that applicant contends is confidential; and
      - (B) identifies specific detailed reasons stating why applicant believes each item listed should be considered confidential and identifies any relevant legal authority in support of the request;

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- (2) segregate the documents which are subject to the request from the other documents submitted with the application, application amendment, or application supplement that are not subject to the request; and
  - (3) adequately designate the documents subject to the request as “confidential.”
- (f) Continued eligibility for value limitation. In order to obtain and continue to receive a limitation on appraised value pursuant to Tax Code, Chapter 313, an applicant shall:
- (1) have a completed application approved by the governing body of the school district in compliance with §9.1054(f) of this title (relating to School District Application Review and Agreement to Limit Appraised Value);
  - (2) at least 30 days prior to the meeting at which the governing body of the school district is scheduled to consider the application, provide to the school district and the comptroller a Texas Economic Development Act Agreement with terms acceptable to the applicant that includes at a minimum:
    - (A) all Texas Taxpayer Identification Numbers assigned by the comptroller to the approved applicant executing the agreement and all Texas Taxpayer Identification Numbers of its reporting entity, which shall be the same numbers listed on the application and, if the approved applicant is comprised of members of a combined group, all Texas Taxpayer Identification Numbers for each such combined group’s members that own a direct interest in the property subject to the proposed agreement;
    - (B) a stipulation that the agreement is executed on the basis that the application is complete and accurately represents all material representations, information, and facts and incorporates the application, all the attachments thereto, and any application supplement or application amendment as part of the agreement as if set forth fully in the agreement;
    - (C) a condition that upon the written determination of the governing body of the school district that the application is either incomplete or inaccurate as to any material representation, information, or fact, the agreement shall be invalid and void except for the enforcement of the provisions required by subparagraph (L) of this paragraph;
    - (D) provisions required for an agreement listed in Tax Code, Chapter 313 with particular reference to Tax Code, §313.027(e), (f), and (i);
    - (E) a provision that identifies the qualifying time period that shall be consistent with the qualifying time period requested in the application;
    - (F) a provision that identifies the beginning of the limitation period that is consistent with the limitation period requested in the application;
    - (G) a condition that before the approved applicant may obtain the limitation on the appraised value identified in the agreement, the approved applicant shall make the qualified investment, as defined in Tax Code, §313.021(1), at least in the amounts required in Tax Code, §313.022, or §313.052 if applicable, within the qualifying time period specified in the agreement;
    - (H) a provision that the approved applicant is required to:
      - (i) create at least the number of new qualifying jobs required by Tax Code, Chapter 313 during the qualifying time period;
      - (ii) create at least the number of qualifying jobs to which the applicant committed in the application during the qualifying time period;
      - (iii) maintain at least the number of qualifying jobs committed in the application from the time the jobs are created until at least the end of the fifth year following the expiration of the limitation on appraised value provided by the agreement; and
      - (iv) for all jobs that are non-qualifying jobs, pay an average weekly wage that exceeds the average weekly wage for non-qualifying jobs in the county where the non-qualifying jobs are located;
    - (I) a provision that identifies the limitation on the appraised value of the qualified property of the approved applicant consistent with Tax Code, §313.027, or if applicable Tax Code, §313.054;
    - (J) a provision that separately states and explicitly identifies the amount, or the method for determining the amount, of any and all payments or transfers made to the school district or to any person or persons in any form if the payment or transfer of thing of value is provided in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value made pursuant to Tax Code, §§313.027(f)(1), 313.027(f)(2), or 313.027(i);

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- (K) a provision by which the approved applicant is required to submit to the school district any information as thereafter may be reasonably requested by the school district or the comptroller in order to evaluate the progress of the agreement or administer and implement Tax Code, Chapter 313 and this subchapter;
- (L) a provision that:
- (i) in the event that the approved applicant fails in any year to comply with the stipulation, condition, provision, or term of the agreement identified in subparagraphs (C), (D), (H)(i), or (J) of this paragraph, the approved applicant is assessed as liquidated damages an amount equal to the amount computed by subtracting from the market value of the property for the tax year in which the approved applicant failed to comply, the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district;
  - (ii) deems the penalty delinquent if it is not paid on or before February 1 of the following tax year; and
  - (iii) applies Tax Code, §33.01 to the delinquent penalty in the manner that section applies to delinquent taxes;
- (M) a provision that the approved applicant shall comply with the conditions included in the certificate for a limitation issued by the comptroller;
- (N) for agreements in which the governing body of the school district approved a deferral of the start of the qualifying time period, and in which the qualifying time period starts more than one year after the date that the application is approved, provisions that:
- (i) require the approved applicant to provide an application amendment or supplement to the school district and comptroller:
    - (I) that identifies any changes in the information that was provided in the application that was approved by the school district and as considered by the comptroller;
    - (II) no earlier than 180 days prior to the start of the qualifying time period; and
    - (III) no later than 90 days prior to the start of the qualifying time period;
  - (ii) require the approved applicant to comply with a written request from the school district or the comptroller to provide additional information necessary to evaluate the economic impact analysis for the conditions prior to the start of the qualifying time period; and
  - (iii) authorize the governing body of the school district to terminate the agreement if the comptroller withdraws its certificate for a limitation based on the revised application;
- (O) a provision that within 60 days from the date commercial operations begin, the approved applicant shall provide to the school district, the comptroller, and the appraisal district a specific and detailed description of the land, tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such qualified property within the boundaries of the land which is subject to the agreement if the final description is different than the description provided in the application or any supplemental application information;
- (P) a provision that in order to amend or in any manner modify the application, agreement, or notice as provided by subparagraph (O) of this paragraph, the following shall occur:
- (i) the approved applicant shall submit to the school district and the comptroller:
    - (I) a written request to amend the application and the limitation agreement which shall specify the changes the applicant requests;
    - (II) any changes to the information that was provided in the application that was approved by the school district and considered by the comptroller; and
    - (III) any additional information requested by the school district or the comptroller necessary to evaluate the amendment or modification;
  - (ii) the comptroller shall review the request and any additional information and provide a revised comptroller certificate for a limitation within 90 days of receiving the revised application or the request to amend the application is denied;



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- (iii) in accordance with the procedure identified in §9.1054(h) of this title, the governing body shall approve or disapprove the request before the expiration of 120 days after the request is filed;
  - (Q) a provision that the failure of the approved applicant to either pay a penalty assessed or provide and implement a plan to remedy a non-compliance as required by the comptroller pursuant to §9.1059 of this title (relating to Annual Compliance Review for Qualifying Jobs and Penalties) is a material breach of the agreement;
  - (R) a provision that the agreement holder may assign its interest in the agreement only if such assignment is approved according to the provisions of subparagraph (P) of this paragraph;
  - (S) for a Texas Priority Project, a provision that in the event that the approved applicant fails to place in service qualified investment of at least \$1 billion during the qualifying time period the agreement terminates and the applicant is subject to any damages or penalties required by the agreement, the comptroller's rules, or the Act; and
  - (T) any other provision negotiated between the applicant and the school district that does not conflict or impair the application or implementation of any stipulation, provision, or term required by this paragraph, this subchapter or Tax Code, Chapter 313;
- (3) if the applicant includes a combined group or members of the combined group, have the agreement executed by the authorized representative of each member of the combined group that owns a direct interest in property subject to the proposed agreement by which such members are jointly and severally liable for the performance of the stipulations, provisions, terms, and conditions of the agreement;
  - (4) comply with all stipulations, provisions, terms, and conditions of the agreement for a limitation on appraised value executed with the school district, this subchapter, and Tax Code, Chapter 313;
  - (5) be and remain in good standing under the laws of this state and maintain legal status as an entity, as defined in this subchapter;
  - (6) owe no delinquent taxes to the state;
  - (7) maintain eligibility for limitation on appraised value pursuant to Tax Code, Chapter 313; and
  - (8) provide to the school district, the comptroller, and the appraisal district any change to information provided in the application, including but not limited to:
    - (A) changes of the authorized representative(s);
    - (B) changes to the location and contact information for the approved applicant including all members of the combined group participating in the limitation agreement;
    - (C) copies of any valid assignments of the agreement and contact information for authorized representative(s) of any assignees.

**Source Note:** The provisions of this §9.1053 adopted to be effective June 22, 2010, 35 TexReg 5355; amended to be effective June 2, 2014, 39 TexReg 4259

## **9.1054. School District Application Review and Agreement to Limit Appraised Value**

- (a) Application fee. Prior to accepting an application for an agreement for limitation on appraised value pursuant to Tax Code, Chapter 313, Subchapter B, the governing body of a school district by official action shall establish a reasonable nonrefundable application fee to be paid by an applicant who applies to the school district for a limitation on the appraised value of applicant's property under such subchapter. The amount of the fee shall not exceed the estimated cost to the district of processing and acting on an application. The total fee shall be paid at time the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.
- (b) Initial review. If a school district receives a completed application, amended application, or supplemental application for property tax limitation within its boundaries, the school district shall submit to the comptroller, not later than 7 days after receiving it, a copy of the following documents:
  - (1) the application;
  - (2) an economic analysis, if any;
  - (3) application amendment;
  - (4) application supplement; and
  - (5) proof of payment of the total filing fee required by the school district.

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- (c) Acting on a completed application. If the governing body of the school district by official action elects to consider an application and determines that the application received is a completed application, the school district shall:
- (1) provide written notice to the applicant and to the comptroller, with a copy to the appraisal district, that the school district has received and will be considering a completed application. The notice shall include:
    - (A) the date on which the application was received;
    - (B) the date on which the governing body elected to consider the application; and
    - (C) the date on which the school district determined that applicant has submitted a completed application;
  - (2) at the time the school district provides notice of a completed application, deliver to the comptroller:
    - (A) a copy of the completed application including all material required by §9.1053(a) and, if applicable (b), of this title (relating to Entity Requesting Agreement to Limit Appraised Value); and
    - (B) a request to the comptroller to provide an economic impact evaluation;
  - (3) if the school district maintains a generally accessible Internet web site, provide a clear and conspicuous link on its web site to the Internet web site maintained by the comptroller where substantive documents for the value limitation application for such school district are posted;
  - (4) on request of the comptroller, provide such written documents containing information requested by the comptroller as necessary for the consideration of a limitation on appraised value pursuant to Tax Code, Chapter 313 within 20 days of the date of the request; and
  - (5) not later than 151 days after the application review start date, present to the governing body of the school district for its consideration:
    - (A) the completed application that has been submitted by applicant;
    - (B) the economic impact analysis submitted by the comptroller;
    - (C) the comptroller certificate for a limitation or written explanation for not issuing a certificate; and
    - (D) a limitation agreement that includes all stipulations, provisions, terms, and conditions required by subsection (g) of this section that is acceptable to the applicant.
- (d) Extending time period for action. The governing body of the school district may extend the time period to approve a completed application required by subsection (c)(5) of this section only if:
- (1) either:
    - (A) an economic impact analysis has not been submitted to the school district by the comptroller; or
    - (B) by agreement with applicant; and
  - (2) notice of the extension is provided to the comptroller within 7 days of the decision to provide the extension.
- (e) Application changes after the notice of completed application. If a school district receives an amended application or a supplemental application from an applicant after the school district has prepared or sent written notice that the applicant has submitted a completed application, the school district shall either:
- (1) reject the amended application, supplemental application, or application, in whole or in part, and discontinue consideration of any submission by applicant;
  - (2) with the written concurrence of the comptroller, consider the completed application, as amended or supplemented, before the 151st day from the application review start date; or
  - (3) review the documents submitted by applicant, issue an amended written notice of a completed application, and present the amended application to the governing body of the school district in the manner and time period authorized by subsection (c)(5) of this section.
- (f) Application with comptroller certificate for a limitation. When presented a completed application pursuant to subsection (c)(5) of this section for which the comptroller has submitted a comptroller certificate for a limitation, the governing body of the school district shall either:
- (1) by majority vote adopt a written resolution approving the application which shall include:
    - (A) written findings:



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- (i) as to each criterion listed in §9.1055(d)(3)(B) - (D) of this title (relating to Comptroller Application Review and Agreement to Limit Appraised Value);
    - (ii) as to the criteria required by Tax Code, §313.025(f-1) if applicable;
    - (iii) that the information in the application is true and correct; and
    - (iv) that applicant is eligible for the limitation on the appraised value of the entity's qualified property;
  - (B) a determination that granting the application is in the best interest of the school district and this state; and
  - (C) designate and direct a representative of the governing body of the school district to execute the agreement for property tax limitation presented by the approved applicant that complies with this subchapter and Tax Code, Chapter 313;
- (2) by majority vote disapprove the application; or
- (3) take no official action and the application shall be considered disapproved on the 151st day after the application review start date.
- (g) Agreement for limitation on appraised value. Pursuant to the provisions of Tax Code, Chapter 313 and this subchapter, in order to implement a limitation on the appraised value for school district maintenance and operation tax purposes on the approved applicant's qualified property that has been approved by the governing body of the school district, at the time of the approval of the application, the authorized representative of the school district and the approved applicant shall execute a Texas Economic Development Act Agreement with terms that at a minimum include:
- (1) all Texas Taxpayer Identification Numbers assigned by the comptroller to the approved applicant executing the agreement and all Texas Taxpayer Identification Numbers of its reporting entity, which shall be the same numbers listed on the application and, if the approved applicant is comprised of members of a combined group, all Texas Taxpayer Identification Numbers for each such combined group's members that own a direct interest in the property subject to the proposed agreement;
  - (2) a stipulation that the agreement is executed on the basis that the application is complete and accurately represents all material representations, information, and facts and incorporates the application, all the attachments thereto, and any application supplement or application amendment as part of the agreement as if set forth fully in the agreement;
  - (3) a condition that upon the written determination of the governing body of the school district that the application is either incomplete or inaccurate as to any material representation, information, or fact, the agreement shall be invalid and void except for the enforcement of the provisions required by paragraph (12) of this subsection;
  - (4) provisions required for an agreement listed in Tax Code, Chapter 313 with particular reference to Tax Code, §313.027(e), (f), and (i);
  - (5) a provision that identifies the qualifying time period that shall be consistent with the qualifying time period requested in the application;
  - (6) a provision that identifies the beginning of the limitation period that is consistent with the limitation period requested in the application;
  - (7) a condition that before the appraised value of the qualified property of the approved applicant may obtain the limitation on the appraised value identified in the agreement, the approved applicant shall make the qualified investment, as defined in Tax Code, §313.021(1), at least in the amounts required in Tax Code, §313.022, or §313.052 if applicable, within the qualifying time period specified in the agreement;
  - (8) a provision that the approved applicant is required to:
    - (A) create at least the number of new qualifying jobs required by Tax Code, Chapter 313 during the qualifying time period;
    - (B) create at least the number of qualifying jobs to which the applicant committed in the application during the qualifying time period;
    - (C) maintain at least the number of qualifying jobs committed in the application from the time they are created until at least the end of the fifth year following the expiration of the limitation on appraised value provided by the agreement; and

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- (D) for all jobs that are non-qualifying jobs, pay an average weekly wage that exceeds the average weekly wage for non-qualifying jobs in the county where the non-qualifying jobs are located;
- (9) a provision that identifies the limitation on the appraised value of the qualified property of the approved applicant consistent with Tax Code, §313.027, or if applicable Tax Code, §313.054;
- (10) a provision that separately states and explicitly identifies the amount, or the method for determining the amount, of any and all payments or transfers made to the school district or to any person or persons in any form if the payment or transfer of thing of value is provided in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value made pursuant to Tax Code, §§313.027(f)(1), 313.027(f)(2), or 313.027(i);
- (11) a provision by which the approved applicant is required to submit to the school district any information as thereafter may be reasonably requested by the school district or the comptroller in order to evaluate the progress of the agreement or administer and implement Tax Code, Chapter 313 and this subchapter;
- (12) a provision that:
- (A) in the event that the approved applicant fails in any year to comply with the stipulation, provision, term, or condition of the agreement identified in paragraphs (3), (4), (8)(A), or (10) of this subsection, the approved applicant is assessed as liquidated damages an amount equal to the amount computed by subtracting from the market value of the property for the tax year in which the approved applicant failed to comply, the value of the property as limited by the agreement and multiplying the difference by the maintenance and operations tax rate of the school district;
  - (B) deems the penalty delinquent if it is not paid on or before February 1 of the following tax year; and
  - (C) applies Tax Code, §33.01 to the delinquent penalty in the manner that section applies to delinquent taxes;
- (13) a provision that the approved applicant shall comply with the conditions included in the certification for a limitation issued by the comptroller;
- (14) for agreements in which the governing body of the school district approved a deferral of the start of the qualifying time period, and in which the qualifying time period starts more than one year after the date that the application is approved, provisions that:
- (A) require the approved applicant to provide an application amendment or supplement to the school district and comptroller:
    - (i) that identifies any changes in the information that was provided in the application that was approved by the school district and as considered by the comptroller;
    - (ii) no earlier than 180 days prior to the start of the qualifying time period; and
    - (iii) no later than 90 days prior to the start of the qualifying time period;
  - (B) require the approved applicant to comply with a written request from the school district or comptroller to provide additional information necessary to evaluate the economic impact analysis for the conditions prior to the start of the qualifying time period; and
  - (C) authorize the governing body of the school district to terminate the agreement if the comptroller withdraws its certificate for a limitation based on the revised application;
- (15) a provision that within 60 days from the date commercial operations begin, the approved applicant shall provide to the school district, the comptroller, and the appraisal district a specific and detailed description of the land, tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such qualified property within the boundaries of the land which is subject to the agreement if the final description is different than the description provided in the application or any supplemental application information;
- (16) a provision that in order to amend or in any manner modify the application, agreement, or notice as provided by paragraph (14) of this subsection, the following shall occur:
- (A) the approved applicant shall submit to the school district and the comptroller:
    - (i) a written request to amend the application and limitation agreement which shall specify the changes the applicant requests;

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- (ii) any changes to the information that was provided in the application that was approved by the school district and considered by the comptroller; and
    - (iii) any additional information requested by the school district or the comptroller necessary to evaluate the amendment or modification;
  - (B) the comptroller shall review the request and any additional information and provide a revised comptroller certificate for a limitation within 90 days of receiving the revised application or the request to amend the application is denied;
  - (C) in accord with the procedure identified in subsection (h) of this section, the governing body of the school district shall approve or disapprove the request before the expiration of 120 days after the request is filed;
- (17) a provision that the failure of the approved applicant to either pay a penalty assessed or provide and implement a plan to remedy a non-compliance as required by the comptroller pursuant to §9.1059 of this title (relating to Annual Compliance Review for Qualifying Jobs and Penalties) is a material breach of the agreement;
- (18) a provision that the agreement holder may assign its interest in the agreement only if such assignment is approved according to the provisions of paragraph (16) of this subsection;
- (19) for a Texas Priority Project, a provision that in the event that the approved applicant fails to place in service qualified investment of at least \$1 billion during the qualifying time period the agreement terminates and the applicant is subject to any damages or penalties required by the agreement, the comptroller's rules, or the Act; and
- (20) any other provision negotiated between the applicant and the school district that does not conflict or impair the application or implementation of any stipulation, provision, term, or condition required by this subsection, this subchapter, or Tax Code, Chapter 313.
- (h) Limitation agreement with deferred qualifying time period. If an agreement for limitation on appraised value includes a provision in which the qualifying time period starts more than one year after the date that the application is approved, the agreement shall include a provision that:
- (1) requires the approved applicant to:
    - (A) provide an application amendment and supplement to the school district and comptroller:
      - (i) that identifies any changes in the information that was provided in the application that was approved by the school district and that was considered by the comptroller;
      - (ii) no earlier than 180 days prior to the start of the qualifying time period; and
      - (iii) no later than 90 days prior to the start of the qualifying time period; and
    - (B) comply with a written request from the comptroller to provide additional information necessary to prepare a comptroller certificate for a limitation for the conditions prior to the start of the qualifying time period; and
  - (2) if the comptroller provides:
    - (A) a comptroller certificate for a limitation with conditions different from the existing agreement, the governing body shall hold a meeting and determine whether to amend the agreement to include the conditions required by the comptroller or terminate the agreement; or
    - (B) a written explanation of the comptroller's decision not to re-issue a certificate, the school district shall terminate the agreement.
      - (i) Compliance and enforcement.
- (1) The school district shall provide to the comptroller:
    - (A) any documents that reasonably appear to be substantive documents as defined in this subchapter; and
    - (B) within seven days of executing the agreement, a copy of the executed agreement and any attachments thereto.
  - (2) The school district shall provide a copy of the executed agreement to the appraisal district.
  - (3) The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement for limitation of the appraised value, this subchapter, and Tax Code, Chapter 313.

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- (4) To determine and obtain compliance with each agreement, for each calendar year during the term of the agreement the school district shall require the approved applicant to submit:
- (A) either:
    - (i) the information necessary to complete the Annual Eligibility Report, adopted by reference in §9.1052 of this title (relating to Forms); or
    - (ii) a completed Annual Eligibility Report, adopted by reference in §9.1052 of this title;
  - (B) a completed Job Creation Compliance Report (Form 50-825), adopted by reference in §9.1052 of this title; and
  - (C) any information required by the State Auditor Office or its designee.

**Source Note:** The provisions of this §9.1054 adopted to be effective June 22, 2010, 35 TexReg 5361; amended to be effective June 2, 2014, 39 TexReg 4259

### **9.1055. Comptroller Application Review and Agreement to Limit Appraised Value**

- (a) Documents submitted to comptroller. Within 15 days of receiving or creating a substantive document, the comptroller shall post such document on the comptroller's Internet website, provided however, the comptroller shall not post any documents determined to be confidential in accordance with Tax Code, §313.028 and this section.
  - (1) The comptroller shall deem information as confidential only if the document:
    - (A) at the time that it is received by the comptroller, the party requesting confidentiality:
      - (i) has segregated the information for which confidentiality is being requested from the other information submitted to the comptroller and clearly and conspicuously labeled it confidential information;
      - (ii) provides a written list specifically identifying each document, portion of document, or entry in the form prescribed by the comptroller that applicant contends is confidential; and
      - (iii) provides in writing specific reasons, including any relevant legal authority, stating why the material is believed to be confidential; and
    - (B) the comptroller determines that the information for which confidentiality is sought describes:
      - (i) specific processes or business activities to be conducted by the applicant; or
      - (ii) specific tangible personal property to be located on real property covered by the application.
  - (2) Substantive documents deemed confidential will not be posted on the internet and will otherwise be withheld from public release unless and until the governing body of the school district acts on the application or the comptroller is directed to release the documents by a ruling from the Attorney General.
  - (3) All applications and parts of applications which are not segregated and marked as confidential as required under this section shall be considered substantive documents and shall be posted on the internet.
  - (4) When the governing body of the school district agrees to consider the application, information in the custody of a school district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility pursuant to Tax Code, Chapter 313, such as the nature and amount of the projected investment, employment, wages, and benefits, shall not be considered confidential business information.
- (b) Application review. Upon receiving an application and accompanying documentation, the comptroller shall review the application to determine if it is complete.
  - (1) If the comptroller determines that the application was not submitted in compliance with or does not have documents or information required pursuant to §9.1053(a) and if applicable (b), of this title (relating to Entity Requesting Agreement to Limit Appraised Value), or does not provide all necessary information the comptroller determines is necessary to make the determinations required by Tax Code, §313.026, and subsection (d) of this section, the comptroller shall provide written notice to the school district, with a copy to applicant, identifying the information that is required or necessary to complete the application.
    - (A) Supplemental application information, amended application information, and additional information requested by the comptroller shall be promptly forwarded to the comptroller within 20 days of the date of the request.

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- (B) On request of the school district or applicant, the comptroller may extend the deadline for providing additional information for a period of not more than 10 working days.
  - (C) Additional information concerning investment, property value, property description, employment, and the qualifying time period that is not provided to the comptroller in a timely manner may or may not be used by the comptroller in making the determinations required by Tax Code, §313.026 or this section.
- (2) Until the comptroller receives such information as is required and necessary to be submitted by applicant, the comptroller may discontinue further action on the application. The comptroller shall discontinue consideration of an application that remains incomplete for more than 180 days after the date the comptroller first received the application plus the number of days of any extension, notice of which has been provided to the comptroller pursuant to §9.1054(d) of this title (relating to School District Application Review and Agreement to Limit Appraised Value).
  - (3) When the comptroller determines that the documentation submitted in support of an application meets the requirements for an application pursuant to §9.1053(a) and if applicable (b), of this title, and the comptroller has received from the school district a request to provide an economic impact evaluation and all necessary documents for an appropriate evaluation of the requested appraised value limitation from the applicant and the school district, the comptroller shall provide:
    - (A) written notice to the school district and applicant that applicant has submitted a completed application; and
    - (B) a copy of the completed application to the Texas Education Agency.
- (c) Action on completed application. After issuing a notice of a completed application, and after receipt of the information from the school district required by §9.1054(c)(2) of this title, the comptroller shall determine whether the property meets the requirements of Tax Code, §313.024 for eligibility for a limitation on appraised value pursuant to the provisions of Tax Code, Chapter 313, Subchapter B or C, whichever is applicable.
    - (1) If the comptroller determines that the property is not eligible for a limitation on appraised value, the comptroller shall:
      - (A) notify the governing body of the school district and applicant of the comptroller's determination by certified mail return receipt requested; and
      - (B) discontinue consideration of the application.
    - (2) If an applicant disagrees with a denial of eligibility for limitation of appraised value under Tax Code, §313.024, applicant may appeal the eligibility determination pursuant to the procedures set forth in Tax Code, Chapter 313 and in §9.1056 of this title (relating to Eligibility Determination Appeal). If an appeal under §9.1056 of this title, results in a determination that the project is eligible, the comptroller shall re-commence review of the application.
  - (d) Action on an eligible completed application. After determining that property identified in an application is eligible for limitation for appraised value and upon receiving a request from the school district to prepare an economic impact analysis, the comptroller shall:
    - (1) review any information available to the comptroller including:
      - (A) the application;
      - (B) public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
      - (C) statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
      - (D) existing investment and operations at or near the site or in the state that may impact the proposed project;
      - (E) announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
      - (F) market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration, or any other information;
    - (2) prepare an economic impact analysis on the investment proposed by the application as required by Tax Code, §313.025 which may include:

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- (A) estimates of the maintenance and operations taxes for the 25 year period after the beginning of the limitation period;
  - (B) estimated tax revenue to the state generated by expenditures by the project, including wages, construction and operational expenditures, or other expenditures; and
  - (C) tax impacts, positive or negative, to the state based on indirect effects of the project, as estimated by the agency and using publicly available economic modeling systems;
- (3) make the following determinations whether:
- (A) it is reasonable to conclude from all the information available that the application is true and correct;
  - (B) the applicant is eligible for the limitation on the appraised value of the applicant's qualified property;
  - (C) the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period; and
  - (D) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state;
- (4) not later than 90 days after written notice that the school district and the comptroller have determined that applicant has submitted a completed application that is eligible for a limitation of appraised value under Tax Code, §313.025(b), provide to the school district:
- (A) an economic impact evaluation as required pursuant to Tax Code, §313.025(b);
  - (B) the comptroller's conclusion for each made pursuant to paragraph (3) of this subsection; and
  - (C) one of the three following:
    - (i) a comptroller certificate for a limitation;
    - (ii) a comptroller certificate for a limitation, subject to:
      - (I) conditions identified in the comptroller certificate for a limitation being completed prior to execution of the agreement; or
      - (II) the agreement including additional provisions as identified in the comptroller certificate for a limitation; or
    - (iii) a written explanation of the comptroller's decision not to issue a certificate.
- (e) Action after agreement review. No later than 10 business days after receiving an agreement for limitation on appraised value acceptable to an applicant, the comptroller:
- (1) shall review the agreement for:
    - (A) compliance with Tax Code, Chapter 313, and this subchapter; and
    - (B) consistency with the application submitted to the comptroller and as amended or supplemented;
  - (2) if the comptroller determines that the agreement as submitted by the applicant does not comply with Tax Code, Chapter 313 or this subchapter or that the agreement contains provisions that are not consistent with or represents information significantly different from that presented in the application as submitted to the comptroller, may amend or withdraw the comptroller certificate for a limitation; and
  - (3) provide written notification to the school district of the actions taken under this subsection.
- (f) Application changes after the notice of completed application. If the comptroller receives an amended application or a supplemental application by an applicant after the comptroller has prepared or sent written notice that applicant has submitted a completed application, the comptroller shall:
- (1) reject the amended application, supplemental application, or application, in whole or in part, and discontinue consideration of any submission by applicant;
  - (2) with the written concurrence of the school district, consider the completed application, as amended or supplemented, before the 91st day from application review start date; or
  - (3) review the documents submitted by applicant and complete the requirements according to subsection (d) of this section.



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- (g) Applications and agreements for deferred qualifying time period. When an eligible completed application for an agreement for limitation on appraised value requests to begin the qualifying time period after the date that the application is approved, the comptroller:
- (1) to the extent possible, shall prepare the economic impact analysis for an estimated impact of the qualified investment during the proposed qualifying time period;
  - (2) if an appraised value limitation agreement which defers the time at which the qualifying time period starts for more than one year is executed, may request at any time prior to the commencement of the qualifying time period additional information to revise the economic impact analysis for the qualified investment; and
  - (3) based on the revised economic impact analysis, may revise the comptroller certificate for a limitation that was previously submitted, or determine to not issue such a certificate; and
  - (4) if a revised comptroller certificate for a limitation is prepared, or a determination is made not to issue such a certificate, shall provide the revised comptroller certificate for a limitation, or a written explanation of the decision not to issue such certificate, and revised economic impact analysis to the school district and approved applicant.

**Source Note:** The provisions of this §9.1055 adopted to be effective June 22, 2010, 35 TexReg 5367; amended to be effective June 2, 2014, 39 TexReg 4259

## **9.1056. Eligibility Determination Appeal**

- (a) Eligibility appeal to the State Office of Administrative Hearings (SOAH). If an applicant disagrees with the comptroller's denial of eligibility for limitation of appraised value under Tax Code, §313.024, the applicant may request an eligibility determination hearing before SOAH. To request an eligibility determination hearing before SOAH, the applicant shall timely file with Local Government Assistance Division (LGA) a written request for an eligibility determination hearing that satisfies all of the requirements of this section.
- (b) Hearing Request. A written request for an eligibility determination hearing shall:
  - (1) include a Statement of Grounds that states fully and in detail each reason or ground on which the basis of eligibility is claimed and citing the specific subsection of Tax Code, §313.024 that applies to each reason or ground;
  - (2) include all documentary evidence, placed in order by category and item number, necessary to support the factual and legal contentions made in the hearing request;
  - (3) include a statement of whether the applicant requests:
    - (A) a written submission hearing before a SOAH administrative law judge; or
    - (B) an oral hearing before a SOAH administrative law judge;
  - (4) be filed within 30 days after the date of the notice of the comptroller's determination; and
  - (5) contain a statement by the person signing the hearing request that, to the best of the person's knowledge, the evidence contained in the hearing request is true and correct.
- (c) Hearing request time extension. If the hearing request with the Statement of Grounds cannot be filed within the applicable time limit, the applicant may request an extension as provided by §1.6 of this title (relating to Extensions of Time for Initiating Hearing Process). A request for an eligibility determination hearing that is not submitted to the comptroller within the original time limit or before the expiration of an extended time limit will not be granted and the request will be denied.
- (d) Filing a hearing request. All hearing requests and other documents related to an Eligibility Determination Appeal shall be filed with the LGA manager. No document or hearing request is filed until actually received. However, any hearing request including contemporaneously filed supporting evidence is timely filed if it is sent to the LGA manager by:
  - (1) first-class United States mail in a properly addressed and stamped envelope or wrapper, and the envelope or wrapper exhibits a legible postmark affixed by the United States Postal Service showing that the hearing request including supporting evidence was mailed on or before the last day for filing;
  - (2) an express mail corporation in a properly addressed envelope or wrapper, and the envelope or wrapper exhibits a legible date showing that the petition including supporting evidence was delivered to the express mail corporation for delivery on or before the last day for filing;

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- (3) fax received on or before the last day for filing if the petition including supporting evidence, is under ten pages in content, the original is mailed within three days of the fax and all procedures for submitting a hearing request have been followed; or
  - (4) electronic transmission, if applicant obtains written permission from the LGA manager before the hearing request, evidence, or both are filed or the LGA manager has approved the file format and form of transmission before the hearing request is filed.
- (e) Position letter. An assistant general counsel of the comptroller's office will review a timely submitted Statement of Grounds together with all the application material submitted by the applicant as of the date of the eligibility determination by the comptroller. The assistant general counsel shall timely prepare and submit to LGA a Position Letter that will accept or reject, in whole or in part, each contention of the applicant, and state the basis or bases for the determination that the property does not meet the requirements of Tax Code, §313.024 for eligibility for a limitation on appraised value pursuant to Tax Code, Chapter 313.
- (f) LGA review. After reviewing the applicant's Statement of Grounds, the assistant general counsel's Position Letter, and such other information it deems appropriate, the LGA shall:
- (1) within 10 days, or other date to which the parties have agreed, either:
    - (A) issue a redetermination accepting the eligibility of the property under the application; or
    - (B) adopt the Position Letter and file a Request to Docket Case form with SOAH; and
  - (2) provide a copy of either the redetermination or the Request to Docket Case form to the applicant and the school district.
- (g) Request to docket case. In accordance with the provisions of SOAH Rules of Procedure, 1 TAC §155.53, at the time the Request to Docket Case form is filed with SOAH, the LGA shall file with SOAH a copy of:
- (1) the applicant's application, forms, schedules and attachments that were submitted to the comptroller by the school district as of the date of the comptroller's eligibility determination;
  - (2) the applicant's Request for Hearing and Statement of Grounds together with any contemporaneously filed supporting evidence; and
  - (3) the LGA's Position Letter.
- (h) SOAH Rules of Procedure. Upon the filing of the Request to Docket Case form with SOAH, the SOAH Rules of Procedure, 1 TAC Chapter 155, shall apply through the issuance of a proposal for decision and rulings on any exceptions that may be filed.
- (i) Comptroller decision. Upon receipt of the proposal for decision from SOAH and review of any exceptions filed by the applicant and the assistant general counsel, the comptroller shall issue a decision. Notification of the comptroller's decision will be mailed to the applicant's authorized representative(s) and to the school district by first class mail. The authorized representative(s) is presumed to have been notified of the comptroller's decision on the third day after notice of the decision is mailed.
- (j) Judicial review. Pursuant to Tax Code, §313.025(h), the applicant may seek judicial review of the comptroller's eligibility determination in a Travis County district court.
- (1) The timely filing of a motion for rehearing is a prerequisite to judicial review. A motion for rehearing shall be filed by the applicant not later than the 20th day after the date on which the applicant or the applicant's attorney of record is notified of the decision.
  - (2) In the absence of a timely filed motion for rehearing, a decision is final on the expiration of the period for filing a motion for rehearing as described in paragraph (1) of this subsection. The final decision is not appealable.
  - (3) If a timely motion for rehearing is filed as described in paragraph (1) of this subsection, the deputy comptroller shall act on a motion for rehearing not later than the 45th day after the date on which the applicant or the applicant's attorney of record is notified of the decision. The deputy comptroller may by written order extend the time for taking action, but may not extend the time beyond the 90th day after the date on which the applicant or the applicant's attorney of record is notified of the decision. The decision is final and appealable on the date an order overruling a motion for rehearing is signed or on the date the motion is overruled by operation of law.
  - (4) If the applicant elects to exercise its ability to seek judicial review, the applicant is required to pay all of the cost of preparation of the original and certified copy of the record of the agency proceeding that is required to be sent

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to the reviewing court including any cost of providing copies of the record to the parties. The cost of preparation of the record includes, but is not limited to, the cost of any transcript.

- (k) Time computation. Time periods identified in this section shall be computed as provided by §1.31 of this title (relating to Computation of Time).

**Source Note:** The provisions of this §9.1056 adopted to be effective June 22, 2010, 35 TexReg 5368

### **9.1057. Reports by Comptroller**

- (a) In order to fulfill the comptroller's statutory obligation under Tax Code, Chapter 313, the comptroller may request information from:
- (1) approved applicants;
  - (2) school districts;
  - (3) appraisal districts; or
  - (4) any other relevant source.
- (b) The entities receiving a request from the comptroller under this section shall provide the information requested in the form and in the manner designated by the comptroller.

**Source Note:** The provisions of this §9.1057 adopted to be effective June 22, 2010, 35 TexReg 5370; amended to be effective June 2, 2014, 39 TexReg 4259

### **9.1058. Miscellaneous Provisions**

- (a) A recipient of limited value under Tax Code, Chapter 313 shall notify immediately the comptroller, school district, and appraisal district in writing of any change in address or other contract information for the owner of the property subject to the limitation agreement for the purposes of Tax Code, §313.032. An assignee's or its reporting entity's Texas Taxpayer Identification Number shall be included in the notification.
- (b) Changes in property values, population data, or strategic investment area designations that occur after an agreement is executed do not affect the job requirements or value limitation in the agreement.
- (c) The comptroller may promulgate guidelines for the administration of Tax Code, Chapter 313.
- (d) The comptroller shall provide information for determining the category in which a school district is classified pursuant to either Tax Code, §313.022 or §313.052 using the following procedure:
- (1) No later than October 1 of each year, the comptroller shall publish on its web site a list and map of the areas that qualify as a strategic investment area using the most recently completed full calendar year data available as of September 1 of that year.
  - (2) The school district and the comptroller shall apply the information from this list and property tax values published by the comptroller's Property Tax Assistance Division to determine school district categories applicable to applications for agreements for value limitation for the succeeding calendar year starting on January 1 of such year.
- (e) Unless expressly stated otherwise, applications and the agreements executed for such application are governed by the statutes and applicable rules and guidelines in effect at the time the application is determined to be complete.

**Source Note:** The provisions of this §9.1058 adopted to be effective January 9, 2008, 33 TexReg 273; amended to be effective June 22, 2010, 35 TexReg 5370; amended to be effective June 2, 2014, 39 TexReg 4259

### **9.1059. Annual Compliance Review for Qualifying Jobs and Penalties**

- (a) The comptroller shall conduct an annual review of new qualifying jobs for each agreement holder to determine whether the agreement holder has created the number of new qualifying jobs required in the agreement and Tax Code, Chapter 313.
- (b) To make the determination, the comptroller may:
- (1) review any Job Creation Compliance Report (Form 50-825) submitted by the agreement holder;
  - (2) request additional information from the agreement holder and inspect the facilities of the agreement holder at which the jobs were to be created, subject to 3 day advance notice to the agreement holder and a mutually agreeable time during regular business hours; or

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- (3) consider any other information that is available to the comptroller.
  - (c) The comptroller may issue a determination that a job created by the agreement holder is not a new qualifying job if the job is identified as a qualifying job by the agreement holder:
    - (1) does not provide 1,440 hours of work or more for that year;
    - (2) was transferred from a facility of the agreement holder from one area of the state to the property covered by the agreement;
    - (3) was created to replace a previous employee of the agreement holder;
    - (4) is not covered by a group health benefit plan for which the business offers to pay at least 72% of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; or
    - (5) does not pay an amount equal to at least 99% of the average weekly wage for manufacturing jobs in the county where the school district administrative office is located and calculated pursuant to the method prescribed by Tax Code, §313.021(5) that is elected by the agreement holder in the application.
  - (d) If the comptroller makes a determination that the agreement holder did not create the required number of qualifying jobs pursuant to subsection (c) of this section, the comptroller shall provide notice to the agreement holder which shall include:
    - (1) the cause of the adverse determination; and
    - (2) corrective measures necessary to remedy the non-compliance.
  - (e) If the comptroller finds that an agreement holder who received an adverse determination in the previous year has failed to remedy the non-compliance following notification of the determination and the comptroller makes an adverse determination with respect to the agreement holder's compliance in the succeeding year:
    - (1) the comptroller shall provide notice to the agreement holder as required by subsection (d) of this section; and
    - (2) the agreement holder shall submit to the comptroller a plan to remedy the non-compliance and certify the agreement holder's intent to fully implement the plan not later than December 31 of the year in which the determination is made.
  - (f) If the comptroller finds that an agreement holder who received an initial adverse determination under subsection (d) of this section and a second adverse determination under subsection (e) of this section, and has failed to remedy the non-compliance following notification of both determinations and the comptroller makes a third adverse determination with respect to the agreement holder's compliance in the year following the second adverse determination under subsection (e) of this section, the comptroller shall impose a penalty on the agreement holder in an amount equal to the amount computed by:
    - (1) subtracting from the number of qualifying jobs required to be created the number of qualifying jobs actually created as determined in the third adverse determination under this subsection; and
    - (2) multiplying the amount computed under paragraph (1) of this subsection, by the average annual wage for all jobs in the county during the most recent four quarters for which data is available.
  - (g) Notwithstanding subsection (f) of this section, if the comptroller finds that an agreement holder has received an adverse determination and the comptroller has previously imposed a penalty on the agreement holder under this section one or more times for the same agreement, the comptroller shall impose a penalty on the agreement holder in an amount equal to the amount computed by multiplying the amount computed under subsection (f) of this section, by an amount equal to twice the average annual wage for all jobs in the county during the most recent four quarters for which data is available.
  - (h) In no event shall a penalty assessed under this section exceed an amount equal to the difference between the amount of the ad valorem tax benefit received by the agreement holder under the agreement in the preceding year and the amount of any supplemental payments made to the school district in that year.
  - (i) If the comptroller imposes a penalty on an agreement holder under this section three times, the comptroller may rescind the agreement between the agreement holder and the school district under this chapter.
  - (j) An adverse determination made under this subsection is subject to the provisions applicable to a deficiency determination under, and subject to the provisions to, Tax Code, §§111.008, 111.0081, and 111.009. A penalty imposed under this subsection is an amount the comptroller is required to collect, receive, administer, or enforce, and the determination

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is subject to the payment and redetermination requirements of Tax Code, §111.0081 and §111.009. A redetermination under Tax Code, §111.009 of an adverse determination under this section is a contested case as defined by Government Code, §2001.003.

- (k) The comptroller shall deposit a penalty collected under this section, including any interest and penalty applicable to the penalty, to the credit of the foundation school fund.
- (l) The penalties and procedures set out in this section do not affect the enforcement of any provisions in an agreement for value limitation between the school district and an agreement holder.

**Source Note:** The provisions of this §9.1059 adopted to be effective June 2, 2014, 39 TexReg 4259

## SUBCHAPTER G. SPECIAL APPRAISAL

### 9.2001. Purpose and Definitions

- (a) The purpose of this section is to implement the intent of Tax Code, §23.51(1) and (7) and §23.251 as follows:
  - (1) to encourage the preservation of open space for wildlife management and conservation of the state's natural heritage in all areas of the state;
  - (2) to create definitive standards for tax appraisers to follow in determining the qualification of property for appraisal on the basis of wildlife management use;
  - (3) to create a mechanism in addition to traditional agricultural use to allow ranchers, farmers, and land managers to conserve open space;
  - (4) to affirm local control of property taxation;
  - (5) to preserve revenue neutrality for all concerned parties; and
  - (6) to allow each property currently qualified in wildlife management use to continue being appraised as open space land.
- (b) The following words and terms, when used in this subchapter, shall have the following meanings:
  - (1) *Manual for the Appraisal of Agricultural Land* — a publication of the Comptroller of Public Accounts. A copy of this publication may be obtained by contacting Texas Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528, or online through Comptroller.Texas.Gov.\*
  - (2) *Guidelines for Qualification of Agricultural Land in Wildlife Management Use* — a publication of the Comptroller of Public Accounts. A copy of this publication may be obtained by contacting Texas Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528, or online through Comptroller.Texas.Gov.\*
  - (3) *Comprehensive Wildlife Management Planning Guidelines* — a series of publications of the Texas Parks and Wildlife Department. Copies of these publications may be obtained by contacting Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744-3291 or online through [www.tpwd.state.tx.us](http://www.tpwd.state.tx.us). There is a separate publication for the following ecoregions or groups of ecoregions:
    - (A) Edwards Plateau and Cross Timbers and Prairies;
    - (B) Gulf Prairies and Marshes;
    - (C) High Plains and Rolling Plains;
    - (D) Pineywoods;
    - (E) Post Oak Savannah and Blackland Prairie;
    - (F) South Texas Plains; and
    - (G) Trans-Pecos.
  - (4) Wildlife management practices—the management categories listed in Tax Code, §23.51(7)(A)(i)–(vii), habitat control, erosion control, predator control, providing supplemental supplies of water, providing supplemental supplies of food, providing shelters, and making of census counts to determine population.
  - (5) Wildlife management activities—the method of implementation of wildlife management practices through the specific activities described in *Guidelines for Qualification of Agricultural Land in Wildlife Management Use*

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and the *Comprehensive Wildlife Management Planning Guidelines* for the ecoregion in which the tract of land is located.

- (6) Tract of land—the entire area of a parcel or contiguous parcels of land as reflected in appraisal district records, under common ownership. The presence of public roads and bodies of water does not affect the contiguity of the parcels of land.
- (7) Wildlife management property association—a group of landowners whose tracts of land:
  - (A) are contiguous (the presence of public roads and bodies of water does not affect the contiguity of the tracts of land);
  - (B) are subject to the wildlife use requirements set forth in §9.2005 of this title (relating to Wildlife Use Requirement);
  - (C) are appraised as qualified open space land under Tax Code, Chapter 23, Subchapter D; and
  - (D) are subject to a written agreement that legally obligates the owner of each tract of land to perform the management practices and activities necessary for each tract of land to qualify under this subchapter for appraisal based on wildlife management use.
- (8) Indigenous wildlife—all native animals that originated in or naturally migrate into or through an area, and that are capable of living naturally in that area, but does not include exotic livestock as defined by Agriculture Code, §142.001(4).
- (9) Breeding population—a group or population of indigenous wildlife that is capable of perpetuating itself through natural breeding.
- (10) Migrating population—indigenous wildlife that moves between seasonal ranges.
- (11) Wintering population—indigenous wildlife that occupies an area during the winter as a consequence of natural migratory behavior.
- (12) Human use—the use of indigenous wildlife or habitat for food, medicine, or recreation by humans.
- (13) Recreation—an active or passive activity for pleasure or sport.
- (14) Wildlife use requirement—the number calculated in the manner required by §9.2005(a), as specified by §9.2005(c)(1)–(12) of this title (relating to Wildlife Use Requirement), for each wildlife use appraisal region.

**Source Note:** The provisions of this §9.2001 adopted to be effective December 11, 2008, 33 TexReg 10042

**\*NOTE:** For clarity purposes, the Web address in the original text of this rule has been replaced with the current Web address from the Comptroller's website which changed effective Jan. 1, 2015. The Web address in the original text of the rule is [www.window.state.tx.us](http://www.window.state.tx.us), which no longer exists.

## 9.2002. Wildlife Use Appraisal Regions

Wildlife use appraisal regions are designated by Texas Parks and Wildlife Department as follows:

- (1) Trans Pecos Region—Brewster, Crane, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler counties.
- (2) High Plains Region—Andrews, Armstrong, Bailey, Carson, Castro, Cochran, Crosby, Dallam, Dawson, Deaf Smith, Ector, Floyd, Gaines, Glasscock, Hale, Hansford, Hartley, Howard, Hutchinson, Hockley, Lamb, Lubbock, Lynn, Martin, Midland, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Sherman, Swisher, Terry, Upton, and Yoakum counties.
- (3) Rolling Plains Region—Archer, Baylor, Borden, Briscoe, Callahan, Childress, Clay, Coke, Coleman, Collingsworth, Concho, Cottle, Dickens, Donley, Fisher, Foard, Garza, Gray, Hall, Hardeman, Haskell, Hemphill, Jones, Kent, King, Knox, Lipscomb, McCulloch, Mitchell, Motley, Nolan, Roberts, Runnels, Scurry, Shackelford, Stonewall, Taylor, Throckmorton, Tom Green, Wheeler, Wichita, and Wilbarger counties.
- (4) Edwards Plateau (Western) Region—Crockett, Edwards, Irion, Kimble, Menard, Reagan, Real, Schleicher, Sterling, Sutton, and Val Verde counties.
- (5) Edwards Plateau (Eastern) Region—Bandera, Bexar, Blanco, Burnet, Comal, Gillespie, Hays, Kendall, Kerr, Llano, Mason, San Saba, Travis, and Williamson counties.



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- (6) Cross Timbers and Prairies Region—Bell, Bosque, Brown, Comanche, Cooke, Coryell, Denton, Eastland, Erath, Hamilton, Hood, Jack, Johnson, Lampasas, Mills, Montague, Palo Pinto, Parker, Somervell, Stephens, Tarrant, Wise, and Young counties.
  - (7) Gulf Prairies and Marshes Region (Upper Coast)—Austin, Brazoria, Calhoun, Chambers, Colorado, Fort Bend, Galveston, Harris, Jackson, Jefferson, Matagorda, Orange, Victoria, Waller, and Wharton counties.
  - (8) Gulf Prairies and Marshes Region (Lower Coast)—Aransas, Brooks, Cameron, Hidalgo, Jim Wells, Kenedy, Kleberg, Nueces, Refugio, San Patricio, and Willacy counties.
  - (9) Post Oak Savannah Region—Bastrop, Bee, Brazos, Burleson, Caldwell, Dewitt, Fayette, Franklin, Freestone, Goliad, Gonzales, Grimes, Guadalupe, Henderson, Hopkins, Karnes, Lavaca, Lee, Leon, Madison, Rains, Red River, Robertson, Titus, Van Zandt, Washington, and Wilson counties.
  - (10) Blackland Prairie Region—Collin, Dallas, Delta, Ellis, Falls, Fannin, Grayson, Hill, Hunt, Kaufman, Lamar, Limestone, McLennan, Milam, Navarro, and Rockwall counties.
  - (11) Pineywoods Region—Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Gregg, Hardin, Harrison, Houston, Jasper, Liberty, Marion, Montgomery, Morris, Nacogdoches, Newton, Panola, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Upshur, Walker, and Wood counties.
  - (12) South Texas Plains Region—Atascosa, Dimmit, Duval, Frio, Kinney, LaSalle, Live Oak, Jim Hogg, McMullen, Maverick, Medina, Starr, Uvalde, Webb, Zavala, and Zapata counties.

**Source Note:** The provisions of this §9.2002 adopted to be effective December 11, 2008, 33 TexReg 10042

## 9.2003. Wildlife Management Plan

- (a) A wildlife management plan shall be completed on the form prescribed by Texas Parks and Wildlife Department (TPWD) for each tract of land for which qualification for agricultural appraisal is sought based on wildlife management use. A copy of this wildlife management plan form may be obtained by contacting Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744-3291 or online through [www.tpwd.state.tx.us](http://www.tpwd.state.tx.us). A chief appraiser may accept, but may not require, a wildlife management plan that is not on the form prescribed by TPWD if the wildlife management plan contains all of the information required by this section.
- (b) The wildlife management plan shall be provided to the appraisal district in which the tract of land is located.
- (c) The wildlife management plan must include:
  - (1) ownership information, property description and current use;
  - (2) the landowner's goals and objectives for the tract of land;
  - (3) the specific indigenous wildlife species targeted for management; and
  - (4) the specific management practices and activities to be implemented in support of the specific indigenous wildlife species targeted for management.
- (d) The specific management practices and activities in the wildlife management plan shall be intended to benefit the specific indigenous wildlife species targeted for management, and shall be consistent with the practices and activities recommended in *Guidelines for Qualification of Agricultural Land in Wildlife Management Use* and the *Comprehensive Wildlife Management Planning Guidelines* for the ecoregion in which the tract of land is located, and the landowner's goals and objectives.
- (e) If the tract of land provides habitat for species federally listed as endangered, threatened, or a candidate for listing as endangered or threatened, the wildlife management plan shall ensure that the specific management practices and activities do not harm the listed endangered, threatened, or candidate for listing as endangered or threatened species.
- (f) A wildlife property association may prepare a single wildlife management plan, provided all required information is included for each tract of land in the wildlife management property association and the plan is signed by each landowner or an agent of the landowner designated in the manner required by Tax Code, §1.111 and §9.3044 of this title (relating to Appointment of Agents for Property Tax).
- (g) An appraisal district may require, for each tract of land qualified for agricultural appraisal based on wildlife management use, that an annual report be filed showing how the wildlife management plan was implemented in any given year. A wildlife management property association may file a single annual report, if the report shows how the wildlife management plan was implemented on each tract of land in the wildlife management property association. If the report

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is required, it shall be completed on the form prescribed by TPWD and shall be signed by the landowner or an agent of the landowner designated in the manner required by Tax Code, §1.111 and §9.3044 of this title. If a single report is filed by a wildlife management property association, the report shall be signed by each landowner or an agent for each landowner designated in the manner required by Tax Code, §1.111 and §9.3044 of this title. A copy of the annual report form may be obtained by contacting Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744-3291 or online through [www.tpwd.state.tx.us](http://www.tpwd.state.tx.us).

**Source Note:** The provisions of this §9.2003 adopted to be effective December 11, 2008, 33 TexReg 10042

#### **9.2004. Qualification for Agricultural Appraisal Based on Wildlife Management Use**

- (a) The chief appraiser shall determine if land qualifies for agricultural appraisal based on wildlife management use in compliance with, and in a manner consistent with, §9.2005 of this title (relating to Wildlife Use Requirement), the *Manual for the Appraisal of Agricultural Land*, the *Guidelines for Qualification of Land in Wildlife Management Use*, and the *Comprehensive Wildlife Planning Guidelines* for the ecoregion in which the tract of land is located.
- (b) A tract of land qualifies for agricultural appraisal based on wildlife management use if:
  - (1) the tract of land is appraised as qualified open space land under Tax Code, Chapter 23, Subchapter D;
  - (2) the landowner's primary use of the tract of land is wildlife management;
  - (3) the tract of land is actively being managed to sustain a breeding, migrating, or wintering population of indigenous wildlife through implementation of a wildlife management plan that meets the requirements of §9.2003 of this title (relating to Wildlife Management Plan);
  - (4) in each tax year for which the owner seeks to qualify the tract of land for agricultural appraisal based on wildlife management use, the landowner has selected at least three wildlife management practices and, using wildlife management activities, has implemented each of the selected practices to the degree of intensity that is consistent with the *Guidelines for Qualification of Agricultural Land in Wildlife Management Use* and the *Comprehensive Wildlife Management Planning Guidelines* for the ecoregion in which the tract of land is located and for the specific indigenous wildlife species targeted for management;
  - (5) the landowner manages indigenous wildlife for human use; and
  - (6) the tract of land meets the specified wildlife use requirements set forth in §9.2005 of this title, if applicable.
- (c) In the first year in which the owner seeks to qualify the tract of land for agricultural appraisal based on wildlife management use, the chief appraiser is required to approve the application if the facts stated on the application, the management plan, and any additional evidence presented by the owner indicate that the land will meet the requirements of subsection (b)(1) of this section and that the owner will devote the land primarily to wildlife management in the manner required by subsection (b)(2)–(3), (5)–(6) of this section, to a degree of intensity that complies with subsection (b)(4) of this section. If in the first year the owner's actual use of the land did not meet these requirements and was otherwise ineligible for appraisal as open-space land, Tax Code, §23.54(j) requires the chief appraiser to appraise the property at market value for the year that it was erroneously appraised.
- (d) The following factors indicate that the primary use of the land is wildlife management, and the chief appraiser shall take each factor into consideration when determining if the land is primarily used for wildlife management as required by subsection (b) of this section:
  - (1) the tract of land is actively being managed under a wildlife management plan as required by this section;
  - (2) the landowner gives the wildlife management practices and activities priority over other uses and activities that take place on the tract of land; and
  - (3) secondary uses of the property do not significantly and demonstrably interfere with the wildlife management practices and activities being conducted on the tract of land or are not detrimental to the indigenous wildlife targeted for management.
- (e) For purposes of this subchapter, the *Manual for the Appraisal of Agricultural Land*, and the *Guidelines for Qualification of Agricultural Land in Wildlife Management Use*, "primary use" has the same meaning as "principal use."

**Source Note:** The provisions of this §9.2004 adopted to be effective December 11, 2008, 33 TexReg 10042

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## 9.2005. Wildlife Use Requirement

- (a) A tract of land's wildlife use requirement is a number expressed as a percentage and calculated by subtracting one from the total number of acres in the tract of land and dividing the result by the total number of acres in the tract of land. The following formula expresses the calculation, with "x" representing the tract of land's total acreage:  $(x-1) \div x = \text{wildlife use requirement}$ .
- (b) If the number of acres in the tract of land is equal to or greater than the number of acres in the tract of land on January 1 of the preceding tax year, the tract of land is not subject to the wildlife use requirement.
- (c) If the number of acres in the tract of land is fewer than the number of acres in the tract of land on January 1 of the preceding tax year, the wildlife use requirement the tract of land must meet to qualify for agricultural appraisal based on wildlife management use shall be selected by the chief appraiser, with the advice and consent of the Appraisal District Board of Directors, from the wildlife use requirement ranges specified for the wildlife use appraisal region in which the tract of land is located as follows:
  - (1) Trans Pecos Region—at least 97% but not more than 99%.
  - (2) High Plains Region—at least 96% but not more than 98%.
  - (3) Rolling Plains Region—at least 96% but not more than 98%.
  - (4) Edwards Plateau (Western) Region—at least 96% but not more than 98%.
  - (5) Edwards Plateau (Eastern) Region—at least 93% but not more than 95%.
  - (6) Cross Timbers and Prairies Region—at least 93% but not more than 95%.
  - (7) Gulf Prairies and Marshes (Upper Coast) Region—at least 92% but not more than 94%.
  - (8) Gulf Prairies and Marshes (Lower Coast) Region—at least 96% but not more than 98%.
  - (9) Post Oak Savannah Region—at least 92% but not more than 94%.
  - (10) Blackland Prairie Region—at least 92% but not more than 94%.
  - (11) Pineywoods Region—at least 92% but not more than 94%.
  - (12) South Texas Plains Region—at least 96% but not more than 98%.
- (d) The wildlife management use requirement that applies to a tract of land located in a wildlife management property association shall be selected by the chief appraiser, with the advice and consent of the Appraisal District Board of Directors, for the wildlife use appraisal region in which the tract of land is located as follows:
  - (1) Trans Pecos Region—at least 95% but not more than 96%.
  - (2) High Plains Region—at least 94% but not more than 96%.
  - (3) Rolling Plains Region—at least 94% but not more than 95%.
  - (4) Edwards Plateau (Western) Region—at least 94% but not more than 95%.
  - (5) Edwards Plateau (Eastern) Region—at least 91% but not more than 92%.
  - (6) Cross Timbers and Prairies Region—at least 91% but not more than 92%.
  - (7) Gulf Prairies and Marshes (Upper Coast) Region—at least 90% but not more than 91%.
  - (8) Gulf Prairies and Marshes (Lower Coast) Region—at least 94% but not more than 95%.
  - (9) Post Oak Savannah Region—at least 90% but not more than 91%.
  - (10) Blackland Prairie—at least 90% but not more than 91%.
  - (11) Pineywoods Region—at least 90% but not more than 91%.
  - (12) South Texas Plains Region—at least 94% but not more than 95%.
- (e) If the tract of land is located in an area designated by Texas Parks and Wildlife Department as habitat for endangered species, a threatened species, or a candidate species for listing as threatened or endangered, the wildlife use requirement for a tract of land to qualify for agricultural appraisal based on wildlife management use shall be selected by the chief appraiser, with the advice and consent of the Appraisal District Board of Directors, from the wildlife use requirement ranges specified for the wildlife use appraisal region in which the tract of land is located as follows:

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- (1) Trans Pecos Region—at least 95% but not more than 96%.
  - (2) High Plains Region—at least 94% but not more than 96%.
  - (3) Rolling Plains Region—at least 94% but not more than 95%.
  - (4) Edwards Plateau (Western) Region—at least 94% but not more than 95%.
  - (5) Edwards Plateau (Eastern) Region—at least 91% but not more than 92%.
  - (6) Cross Timbers and Prairies Region—at least 91% but not more than 92%.
  - (7) Gulf Prairies and Marshes (Upper Coast) Region—at least 90% but not more than 91%.
  - (8) Gulf Prairies and Marshes (Lower Coast) Region—at least 94% but not more than 95%.
  - (9) Post Oak Savannah Region—at least 90% but not more than 91%.
  - (10) Blackland Prairie Region—at least 90% but not more than 91%.
  - (11) Pineywoods Region—at least 90% but not more than 91%.
  - (12) South Texas Plains Region—at least 94% but not more than 95%.
- (f) The wildlife management use requirements made by this section do not apply to a tract of land if:
- (1) beginning with the tax year that began on January 1, 2002, the tract of land has continuously and without interruption qualified for agricultural appraisal based on wildlife management use; and
  - (2) the size of the tract of land, when measured in acres, is equal to or greater than, the size of the tract on January 1, 2009.
- (g) The wildlife management use requirements set by this section do not apply to a tract of land located in Clay, McCulloch, or Terrell County that was qualified for agricultural appraisal based on wildlife management use in the tax year that began on January 1, 2008, if the size of the tract, when measured in acres, is equal to or greater than the size of the tract on January 1, 2008.

**Source Note:** The provisions of this §9.2005 adopted to be effective December 11, 2008, 33 TexReg 10042; amended to be effective April 14, 2009, 34 TexReg 2395

## SUBCHAPTER H. TAX RECORD REQUIREMENTS

### 9.3001. Appraisal Cards

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and maintain a system of appraisal cards for all parcels of real estate which each office is required to appraise.
- (b) On each parcel of residential or commercial real estate, a separate appraisal card shall be developed and maintained which contains the following items of information related to the land:
  - (1) the legal description of the land (this provision shall not be interpreted to require field note descriptions);
  - (2) the account number of the property;
  - (3) a section indicating zoning classification (if any);
  - (4) a section indicating street improvements (e.g.: unimproved, graveled, paved);
  - (5) a section indicating utilities available (e.g., water, sewer, electricity, gas);
  - (6) a section indicating basic measurements of the land (e.g., frontage, depth, acreage);
  - (7) a section for computation of the land value;
  - (8) a section for any remarks by the appraiser relevant to the parcel;
  - (9) the identification of each taxing unit in which the property is taxable.
- (c) On each parcel of residential or commercial real estate the appraisal card shall contain the following items of information related to the improvements on the parcel:
  - (1) a diagram of all improvements on the parcel indicating perimeter measurements;

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- (2) separate sections indicating the type of construction for the foundation, floor, exterior walls, and roof;
  - (3) a section indicating the date of appraisal and the initials of the appraiser;
  - (4) a section indicating the use type of the improvements (e.g., single-family, duplex, apartment, store, warehouse, factory, etc.);
  - (5) a section indicating additional details of construction (e.g., porches, garages, storage buildings, fireplaces, etc.);
  - (6) a section indicating depreciation calculation related to the improvements;
  - (7) a section for the computation of the improvement value;
  - (8) a section for any remarks or comments by the appraiser relevant to the improvements on the parcel;
  - (9) in addition to all the information listed in this subsection, each appraisal card shall indicate the amount of appraised value of property included in the parcel for each category classification required by the annual school district report of property value.
- (d) On each parcel of rural or acreage real estate, an appraisal card shall be maintained which shall contain the following items of information related to the parcel:
- (1) all information required under subsection (c)(1)-(9) of this section for each improvement located on the parcel;
  - (2) all information required under subsection (b)(1), (2), (3), (8), and (9) of this section related to the land;
  - (3) a section indicating the size of the parcel and the number of acres in each of the following use categories:
    - (A) irrigated;
    - (B) dry cropland;
    - (C) improved pasture;
    - (D) native pasture;
    - (E) orchard;
    - (F) timber; and
    - (G) barren or waste;
  - (4) a section indicating road access (e.g., paved, gravel, dirt, unimproved, none);
  - (5) a section indicating utility availability (electricity, gas, sewer, etc.);
  - (6) in districts with irrigated land, a section indicating the number and capacity of irrigation wells or the number of acres covered by irrigation permits;
  - (7) in addition to the information listed in this subsection, each appraisal card shall indicate the amount of appraised value of property included in the parcel for each category classification required by the annual school district report of property value.
- (e) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (f) Appraisal district offices failing to establish an appraisal card system as required in this section may be judged to be in compliance upon a showing to the board that an appraisal card system substantially equivalent to that required in this section has been established.

**Source Note:** The provisions of this §9.3001 adopted to be effective August 10, 1979, 4 TexReg 2679; amended to be effective April 30, 1981, 6 TexReg 1441; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### 9.3002. Tax Maps

- (a) All appraisal offices and all tax offices appraising property for purposes of ad valorem taxation shall develop and maintain a system of tax maps covering the entire area of the taxing units for whom each office appraises property.
- (b) Each tax map system shall be drawn to scale and delineated for lot lines or property lines or both, with dimensions or areas and identifying numbers, letters, or names for all delineated lots or parcels.

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- (c) Each tax map shall be divided into sections drawn at a scale large enough to serve the purposes of property assessment. Developed or subdivided areas may be drawn at a different scale than undeveloped or unsubdivided tracts.
  - (d) The tax map, each section thereof, and each parcel thereon shall be assigned numbers in accordance with a parcel identification numbering system. Such numbers shall be recorded on the tax map, section, and parcel. The identifying number for each parcel as recorded on the tax map shall also be recorded on the appraisal card maintained for that parcel.
  - (e) The tax map system shall be annually updated to incorporate any new subdivisions or property transfers as indicated by the filing of subdivision plats or deeds with the county clerk's office of the county or counties in which the taxing units for whom each office appraises property are located.
  - (f) Any information required by these sections may be maintained in electronic data processing records rather than physical documents.
  - (g) Development of tax map systems (or substantial progress toward development) shall be completed by January 1, 1983.
  - (h) Appraisal offices and tax offices failing to establish a tax map system as required in this section may be judged to be in compliance upon a showing to the board that a tax map system substantially equivalent to that required in this section has been established.

**Source Note:** The provisions of this §9.3002 adopted to be effective August 10, 1979, 4 TexReg 2679; amended to be effective September 1, 1981, 6 TexReg 3270; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3003. Uniform Tax Records System**

- (a) All tax offices appraising property for purposes of ad valorem taxation shall develop and maintain a uniform tax records system.
- (b) The uniform tax records system shall be composed of the following items of information:
  - (1) appraisal cards;
  - (2) maps;
  - (3) rendition forms;
  - (4) report of decreased value forms;
  - (5) appraisal records of all property;
  - (6) tax roll of any taxing jurisdiction for whom the office assesses or collects;
  - (7) delinquent tax roll of any taxing jurisdiction for whom the office assesses and collects taxes;
  - (8) alphabetical index;
  - (9) partial exemption lists;
  - (10) absolute exemption lists for property for which an exemption application is required; and
  - (11) open-space land valuation; agricultural use valuation; timber use valuation; recreational, park, and scenic land valuation; and public access airport property lists.
- (c) Each item required in the uniform tax records system shall be developed and maintained as required by subsequent rules of the board.
- (d) Any item required by these sections may be maintained in electronic data processing records rather than in physical documents. However, a physical document for the appraisal roll for the appraisal district or for a taxing unit and the tax rolls for a taxing unit must be prepared and made readily available to the public, as required by Texas Property Tax Code, §1.10.
- (e) Appraisal district offices failing to establish a uniform tax records system as required in this section may be judged to be in compliance upon a showing to the board that a uniform tax records system substantially equivalent to that required in this section has been established.

**Source Note:** The provisions of this §9.3003 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481



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### 9.3004. Appraisal Records of All Property

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and maintain appraisal records of all property which each office is required to appraise.
- (b) The appraisal records of all property shall be two lists—one list for real property and one list for personal property—and shall contain the following items of information as applicable:
  - (1) the name and address of the owner or, if the name or address is unknown, a statement that it is unknown;
  - (2) the legal description of the real property of the owner (this provision shall not be interpreted to require field note descriptions);
  - (3) the separately taxable estates or interests in real property, including taxable possessory interests in exempt real property;
  - (4) the general description of taxable personal property and location thereof, if available;
  - (5) if the property is a manufactured home, as defined in Occupations Code, §1201.003, the permanent identification number(s) or serial number(s) attached to the home, together with the make and model of the home, its approximate age, general physical condition, and any characteristics that distinguish the home from other manufactured homes;
  - (6) the appraised value of land and, if the land is appraised as provided by Tax Code, Chapter 23, Subchapter C, D, or H, the market value of the land;
  - (7) the appraised value of improvements to land;
  - (8) the appraised value of a separately taxable estate or interest in land;
  - (9) the appraised value of personal property;
  - (10) the kind of any partial exemption the owner is entitled to receive, whether the exemption applies to appraised value, and in the case of an exemption authorized by Tax Code, §11.23, the amount of the exemption;
  - (11) whether the property qualifies for an extension of the school tax ceiling as the residence homestead of an over-55 surviving spouse of a person who qualified the homestead for a tax ceiling before his or her death;
  - (12) the tax year to which the appraisal applies;
  - (13) an identification of each taxing unit in which the property is taxable;
  - (14) whether the property qualifies for appraisal at its value as of September 1 of the year preceding the tax year;
  - (15) the name and address of an agent for notices, if any;
  - (16) whether the property is a special inventory, as defined by Tax Code, §23.12A;
  - (17) whether the property is subject to a limitation of school taxes as provided by Tax Code, §11.26, and whether and when the limitation was transferred to the homestead as provided by Tax Code, §11.26(g);
  - (18) whether the property is subject to a limitation on the appraised value of a residence homestead as provided by Tax Code, §23.23; and
  - (19) whether the property is subject to the deferred collection of taxes on an appreciating homestead as provided by Tax Code, §33.065.
- (c) The entry for each real property parcel that is appraised as part of a residential real property inventory shall indicate that the property is appraised as inventory and identify the inventory of which it is a part.
- (d) Any item required by these sections may be maintained in electronic data processing records rather than in physical documents. However, a physical document for the appraisal roll for the appraisal district or for a taxing unit must be prepared and made readily available to the public, as required by Tax Code, §1.10.
- (e) An appraisal district may maintain its appraisal records in any form that substantially complies with the provisions of this section.

**Source Note:** The provisions of this §9.3004 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; amended to be effective January 21, 1986, 11 TexReg 93; amended to be effective May 18, 1988, 13 TexReg 2165; amended to be effective August 22, 1988, 13 TexReg 3876; amended to be effective June 22, 1990, 15 TexReg 3350; transferred effective November 26,

### **9.3005. Tax Roll for Any Taxing Unit**

- (a) All offices assessing or collecting or both for purposes of ad valorem taxation shall develop and maintain a tax roll of any taxing jurisdiction for whom that office performs these functions.
- (b) The tax roll of any taxing jurisdiction shall contain the following items of information on each parcel of property:
  - (1) the name and address of the owner of the property;
  - (2) the legal description of the property;
  - (3) the account number of the property;
  - (4) the value of the property which is certified by the Appraisal Review Board;
  - (5) the kind and amount of any partial exemptions applied against the value of the property, if any; and
  - (6) the amount of the tax levied on the property.
- (c) Any item required by these sections may be maintained in electronic data processing records rather than in physical documents. However, a physical document for the tax roll for a taxing unit must be prepared and made readily available to the public, as required by Texas Property Tax Code, §1.10.
- (d) No provisions of these sections are to be construed as prohibiting the consolidation of rolls.
- (e) Offices failing to establish a tax roll of any taxing jurisdiction as required in this section may be judged to be in compliance upon a showing to the board that a tax roll of any taxing unit substantially equivalent to that required in this section has been established.

**Source Note:** The provisions of this §9.3005 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3008. Delinquent Tax Roll of Any Taxing Unit**

- (a) All offices collecting for purposes of ad valorem taxation shall develop and maintain a delinquent tax roll of any taxing unit for whom that office performs this function.
- (b) The delinquent tax roll of any taxing jurisdiction shall contain the following items of information on each parcel of property which has delinquent taxes:
  - (1) the year for which the taxes on the property are delinquent;
  - (2) the name and address of the current owner of the property;
  - (3) the legal description of the property as listed on the tax roll;
  - (4) the account number of the property; and
  - (5) the amount of the tax levied.
- (c) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (d) No provisions of these sections are to be construed as prohibiting the consolidation of rolls.
- (e) Offices failing to establish a delinquent tax roll of any taxing unit as required in this section may be judged to be in compliance upon a showing to the board that a delinquent tax roll of any taxing unit substantially equivalent to that required has been established.

**Source Note:** The provisions of this §9.3008 adopted to be effective July 22, 1976, 1 TexReg 1894; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3009. Alphabetical Index**

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and maintain an alphabetical index of property owners.

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- (b) The alphabetical index of property owners shall contain the following items of information:
    - (1) the name of the owner (listed alphabetically); and
    - (2) the account number of the property.
  - (c) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
  - (d) Appraisal district offices failing to establish an alphabetical index as required in this section may be judged to be in compliance upon a showing to the board that an alphabetical index substantially equivalent to that required has been established.

**Source Note:** The provisions of this §9.3009 adopted to be effective July 22, 1976, 1 TexReg 1894; amended to be effective April 30, 1981, 6 TexReg 1445; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3010. Partial Exemption Lists**

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and maintain partial exemption lists.
- (b) The partial exemption lists shall contain the following two items of information for the state-mandated homestead exemption, the state-mandated over-65 homestead exemption, the state-mandated disability homestead exemption, the local-option percentage homestead exemption, the optional over-65 or disability homestead exemption, and the disabled veteran's exemption: the total number of each kind of partial exemption for each taxing unit and total value that is exempted by each kind of partial exemption for each taxing unit. A list showing this information for each kind of partial exemption shall be made available to the public.
- (c) Any item required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (d) No provisions in these sections are to be construed as prohibiting the consolidation of lists.
- (e) Appraisal district offices failing to establish partial exemption lists as required in this section may be judged to be in compliance upon a showing to the board that partial exemption lists substantially equivalent to that required have been established.

**Source Note:** The provisions of this §9.3010 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; amended to be effective January 6, 1984, 8 TexReg 5413; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3011. Absolute Exemption Lists**

- (a) Except as provided by subsection (f) of this section, each appraisal office appraising property for purposes of ad valorem taxation shall develop and maintain absolute exemption lists of property for which an exemption application is required.
- (b) The absolute exemption lists, categorized by the type of absolute exemption granted, shall contain the following items of information:
  - (1) the name and address of the owner as of January 1 of the tax year; and
  - (2) the account number of the property, if any.
- (c) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (d) No provisions in these sections are to be construed as prohibiting the consolidation of lists.
- (e) An appraisal district office failing to establish absolute exemption lists as required in this section may be judged to be in compliance on a showing to the Comptroller of Public Accounts that absolute exemption lists substantially equivalent to that required by this section have been established.
- (f) Each appraisal district office shall not be required to develop and maintain absolute exemption lists of:
  - (1) income-producing tangible personal property used to produce income and having a value of less than \$500; and

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- (2) mineral interests having a value of less than \$500.

**Source Note:** The provisions of this §9.3011 adopted to be effective July 22, 1976, 1 TexReg 1894; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective March 18, 1996, 21 TexReg 1889

### **9.3012. Open-Space Land Valuation; Agricultural Use Valuation; Timber Use Valuation; Recreational, Park, and Scenic Land Valuation; and Public Access Airport Property Lists**

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and tax offices collecting ad valorem taxes shall maintain open-space land valuation; agricultural-use valuation; timber-use valuation; recreational, park, and scenic land valuation; and public access airport property lists. These lists shall be made available to the public.
- (b) These five lists, categorized by the type of valuation granted, shall contain the following items of information for each 12-month period beginning June 1:
  - (1) the name of at least one owner (kept in alphabetical order) of the property as of January 1 of the tax year;
  - (2) the account number of the property;
  - (3) the legal description of the real property; and
  - (4) the acreage of the property.
- (c) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (d) No provisions in these sections are to be construed as prohibiting the consolidation of lists.
- (e) Offices failing to establish open-space land valuation; agricultural use valuation; timber use valuation; recreational, park, and scenic land valuation; and public access airport property lists as required in this section may be judged to be in compliance upon a showing to the board that such lists substantially equivalent to that have been established.

**Source Note:** The provisions of this §9.3012 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3014. Property Identification System**

- (a) All appraisal district offices appraising property for purposes of ad valorem taxation shall develop and maintain a system of property identification and description.
- (b) The system of property identification developed should provide a one-to-one relationship between a parcel of property and its identification.
- (c) The system of property identification developed should provide that each property identification changes when the physical boundaries of a parcel of property changes to which it is assigned.
- (d) A system of property identification developed should provide for an easily generated property identification that is achieved through a minimum of steps.
- (e) A system of property identification developed should provide for easy maintenance and updating.
- (f) A system of property identification developed should be convenient to use by the appraisal district office.
- (g) Any information required by these sections may be maintained in electronic data processing records rather than in physical documents.
- (h) Appraisal district offices failing to establish a system of property identification and description as required in this section may be judged to be in compliance upon a showing to the board that a system of property identification and description substantially equivalent to that required has been established.

**Source Note:** The provisions of this §9.3014 adopted to be effective July 22, 1976, 1 TexReg 1894; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### **9.3015. Report of Decreased Value Forms**

- (a) All appraisal offices shall prepare and make available forms for the report of decreased value by any property owner.

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- (b) All forms for the report of decreased value by any property owner shall provide for the following information:
- (1) a statement indicating that the report form is to be filed by the property owner after January 1 and not later than April 15;
  - (2) the year for which the report of decreased value is filed;
  - (3) the name of any taxing units to which the report of decreased value is filed;
  - (4) the identification of the property owner filing the report of decreased value (name and address);
  - (5) the legal description of the property involved in the filing of the report of decreased value and its location;
  - (6) the name and address of a person to contact for additional information;
  - (7) the date of the report of decreased value;
  - (8) the signature of the property owner, or the authorized officer or agent, filing the report of decreased value; and
  - (9) a statement that the report of decreased value is confidential and not open to public inspection, except for those instances set forth in the Tax Code, §22.27(b).
- (c) In order to determine the appraised value of property that is the subject of a completed and timely filed report of decreased value, the report form will provide for the following necessary information:
- (1) a statement indicating the nature and cause of decreased value of the property subject to the report; and
  - (2) a statement indicating that the property owner may state his or her opinion about the market value of the property subject to the report.
- (d) All forms for the report of decreased value by any property owner shall require the property owner to state that the information contained in the form is true and correct to the best of the property owner's knowledge and belief. If the report is filed by someone other than the property owner, an employee of the property owner, or an employee of a property owner on behalf of an affiliated entity of the property owner, the report must be sworn before an officer authorized by law to administer an oath.
- (e) All forms for the report of decreased value by any property owner shall make provision for the following information on the back of the form:
- (1) the name of the person from the appraisal office who reviews the property to verify any change in value;
  - (2) the date the person from the appraisal office views the property subject to the report or, in the case of an oil and gas property, reviews the appraisal of the property; and
  - (3) the determination of any decrease in appraised value and its cause and nature by the person from the appraisal office who views the property to verify any change in value.
- (f) Appraisal offices failing to establish a form for the report of decreased value as required in this section may be judged to be in compliance upon a showing to the board that a form for the report of decreased value substantially equivalent to that required in this section has been established.

**Source Note:** The provisions of this §9.3015 adopted to be effective April 30, 1981, 6 TexReg 1441; amended to be effective October 30, 1981, 6 TexReg 3873; amended to be effective December 22, 1988, 13 TexReg 6094; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective March 16, 1994, 19 TexReg 1467; amended to be effective February 3, 1998, 23 TexReg 798; amended to be effective January 10, 2000, 25 TexReg 211

### **9.3031. Rendition Forms**

- (a) All appraisal offices and all tax offices appraising property for purposes of ad valorem taxation shall prepare and make available at no charge, printed or electronic forms for the rendering of property.
- (b) A person rendering property shall use the model form adopted by the Comptroller of Public Accounts or a form containing information which is in substantial compliance with the model form if approved by the comptroller.
- (c) Nothing in this section shall be construed to prohibit the combination of the information contained on two or more model forms into a single form in order to use a single form to achieve substantial compliance with two or more model forms.

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(d) The comptroller's model forms applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division. The model rendition forms are:

- (1) General Real Property Rendition of Taxable Property (Form 50-141);
- (2) General Personal Property Rendition of Taxable Property-Non Incoming Producing (Form 50-142);
- (3) Report of Leased Space for Storage of Personal Property (Form 50-148);
- (4) Industrial Real Property Rendition of Taxable Property (Form 50-149);
- (5) Oil and Gas Lease Rendition of Taxable Property (Form 50-150);
- (6) Mine and Quarry Real Property Rendition of Taxable Property (Form 50-151);
- (7) Telephone Company Rendition of Taxable Property (Form 50-152);
- (8) REA-Financed Telephone Company Rendition of Taxable Property (Form 50-153);
- (9) Electric Company and Electric Cooperative Rendition of Taxable Property (Form 50-154);
- (10) Gas Distribution Utility Rendition of Taxable Property (Form 50-155);
- (11) Railroad Rendition of Taxable Property (Form 50-156);
- (12) Pipeline and Right-of-Way Rendition of Taxable Property (Form 50-157);
- (13) Business Personal Property Rendition of Taxable Property (Form 50-144);
- (14) Watercraft Rendition of Taxable Property (Form 50-158);
- (15) Aircraft Rendition of Taxable Property (Form 50-159); and
- (16) Residential Real Property Inventory (Form 50-143).

**Source Note:** The provisions of this §9.3031 adopted to be effective October 30, 1981, 6 TexReg 3878; amended to be effective January 6, 1984, 8 TexReg 5414; amended to be effective March 1, 1985, 10 TexReg 588; amended to be effective August 22, 1988, 13 TexReg 3876; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective February 2, 1998, 23 TexReg 799; amended to be effective January 10, 2000, 25 TexReg 211; amended to be effective December 24, 2003, 28 TexReg 11338; amended to be effective March 10, 2008, 33 TexReg 2033; amended to be effective March 1, 2011, 36 TexReg 1338; amended to be effective February 16, 2012, 37 TexReg 710

### **9.3034. Notice of Exemption Application Requirement**

- (a) Notice of explanation to accompany all application forms for exemptions that must be applied for annually.
  - (1) Before February 1 of each year, the chief appraiser shall deliver an appropriate exemption application form to each person who in the preceding year was allowed an exemption that must be applied for annually.
  - (2) The exemptions which require an annual application are set forth in Tax Code, Chapter 11.
- (b) With each of these exemption applications, a brief explanation containing the following information shall be included:
  - (1) a statement that the exemption claimed in the previous year must be applied for annually;
  - (2) except as provided by subsection (c) of this section, a statement that the applicant must file the application before May 1 of the tax year and must furnish the information required on the application for the application to be valid;
  - (3) a statement that the chief appraiser, for good cause, may extend the deadline once for a period up to 60 days;
  - (4) a statement that, except in limited circumstances set forth in the Tax Code, if the application is not timely filed the exemption must be denied;
  - (5) a statement that the chief appraiser is required to cancel a granted exemption if he discovers any reason that the exemption should not have been granted, and in such an event, the chief appraiser will deliver a written notice to the taxpayer within five days after the date he makes the cancellation.



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- (c) An organization that acquires property that qualifies for an exemption under Tax Code, §11.181(a) or §11.1825 may apply for the exemption for the year of acquisition not later than the 30th day after the date the organization acquires the property in order to claim an exemption for the remaining portion of that tax year.

**Source Note:** The provisions of this §9.3034 adopted to be effective January 6, 1982, 6 TexReg 4813; amended to be effective January 6, 1984, 8 TexReg 5415; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective March 18, 1996, 21 TexReg 1890; amended to be effective September 30, 2010, 35 TexReg 8770

### **9.3038. Current, Delinquent, and Special Valuation Rollback Tax Bills or Statements**

- (a) All offices assessing and collecting taxes for purposes of ad valorem taxation shall prepare and issue current, delinquent, and special valuation rollback tax bills or statements, as applicable and required by the Tax Code.
- (b) Current tax bills or statements shall be prepared as follows:
- (1) Current tax bills shall be issued to each person in whose name the property is listed, and to his authorized agent, by October 1, or as soon thereafter as practicable. In the case of mortgaged property where taxes are paid from an escrow account controlled by the mortgagee (mortgage holder), the notice requirements shall be satisfied by sending the tax bill to the mortgagee. Written authorization by the property owner is not required in order to deliver the tax bill to the mortgage company when the mortgage company acknowledges that it has authority for payment of taxes on the property.
  - (2) The items of information to be included on the current tax bill are those set forth in Tax Code, §31.01(c), (c-1), and (d); Tax Code, §33.045; the amount of the penalty authorized by Tax Code, §22.28 and §22.29; and any other information required by interlocal agreement between taxing units and their collectors.
  - (3) Current tax bills prepared for owners of special inventory shall separately itemize the taxes levied against the special inventory pursuant to Tax Code, §§23.122, 23.12, 23.1242, and 23.128.
- (c) Delinquent tax bills or statements shall be prepared as follows:
- (1) As outlined in Tax Code, §33.04, delinquent tax bills shall be delivered to each person whose name appears on the current and cumulative delinquent tax rolls.
  - (2) The following items of information shall be included on each delinquent tax bill:
    - (A) the name, address, and telephone number of the collecting office, the name of the taxing unit(s) for which delinquent taxes are due on the specified property for which that office collects, and the name and telephone number of the assessor for the taxing unit(s) if different from the collector;
    - (B) the name and address of the property owner and/or agent;
    - (C) the description of the property;
    - (D) the account number of the property;
    - (E) the year(s) for which the taxes are delinquent;
    - (F) the amount(s) of delinquent taxes, penalties, and interest due, indicating the amount due each taxing unit;
    - (G) the date by which the taxes delinquent should be paid before additional penalties and interest are applied;
    - (H) if applicable, a statement that a protest or request for correction is pending before an appraisal review board or that an appeal to district court or binding arbitration is pending; and
    - (I) if applicable, a statement that a tax deferral or abatement applies to the account.
  - (3) Delinquent tax bills prepared for owners of special inventory shall separately itemize the taxes levied against special inventory pursuant to Tax Code, §§23.122, 23.12, 23.1241, and 23.128, and must include the name and telephone number of the assessor for the taxing unit and, if different, of the collector for the unit.
- (d) Special valuation rollback tax bills shall be prepared as follows:
- (1) Special valuation rollback tax bills shall be issued as provided in Tax Code, Chapter 23, specifically §23.46(c) for the rollback taxes under agricultural-use valuation; §23.55(e) for the rollback taxes under open-space agricultural land valuation; §23.76(e) for the rollback taxes under open-space timber land valuation; §23.86(c) for the rollback taxes for recreational, park, and scenic land valuation; and §23.96(c) for the rollback taxes for public access airport property.

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- (2) The following minimum items of information shall be included on the special valuation rollback tax bills:
- (A) the description of the property subject to the rollback tax;
  - (B) the account number of the property;
  - (C) the year(s) for which the rollback tax is imposed;
  - (D) the amount of taxes which would have been imposed on the property for the year(s) based on the market value of the property;
  - (E) the amount of taxes that were imposed on the property for the year(s) based on the productivity value of the property;
  - (F) the difference of taxes between market and productivity values for the year(s) on the property;
  - (G) the amount of interest imposed on the property for the year(s);
  - (H) the total amount of tax and interest due and the due date;
  - (I) the rates of penalty and interest imposed for delinquent payment of the taxes and interest;
  - (J) a statement indicating that the taxes due are for rollback tax purposes; and
  - (K) the name and telephone number of the assessor for the taxing unit and if different, of the collector for the unit.
- (e) Offices assessing and collecting taxes for purposes of ad valorem taxation that fail to prepare and issue current, delinquent, and special valuation rollback tax bills as required in this section will be deemed to be in compliance if the bills or statements have substantially the same information as required by this section.
- (f) At the option of the collecting office, more than one year of delinquent taxes may be included on one delinquent tax bill.

**Source Note:** The provisions of this §9.3038 adopted to be effective March 24, 1982, 7 TexReg 1056; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective March 16, 1994, 19 TexReg 1467; amended to be effective February 3, 1998, 23 TexReg 799; amended to be effective November 9, 2005, 30 TexReg 7228

### **9.3039. Tax Refund Form**

- (a) All offices collecting taxes for purposes of ad valorem taxation shall prepare and make available forms for use by taxpayers in applying for a tax refund for an overpayment or erroneous payment of taxes, as provided in Texas Property Tax Code, §31.11.
- (b) The tax refund form shall make provision for the following items of information to be filed by the taxpayer who believes that an overpayment or erroneous payment of taxes has been made:
  - (1) the name and address of the property owner and/or agent;
  - (2) the description of the property and its location;
  - (3) the account number of the property on the tax roll and/or tax receipt of the property;
  - (4) the name of the taxing unit(s) from which the refund is requested;
  - (5) the year for which the refund is requested;
  - (6) the date of the payment of taxes;
  - (7) the amount of taxes paid by the taxpayer;
  - (8) the amount of refund requested by the taxpayer;
  - (9) the reason that the taxpayer believes that the payment was an overpayment or erroneous payment and support documentation;
  - (10) the signature of the applicant;
  - (11) the date of the application for tax refund.
- (c) The office collecting taxes for purposes of ad valorem taxation shall provide the following items of information on the tax refund form:
  - (1) the name and address of the collecting office and the name of the taxing unit(s) for which that office collects;

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- (2) an indication of the approval or disapproval of the application by a taxpayer for a tax refund;
  - (3) the signature of the authorized officer charged with the authority to approve or disapprove tax refunds and the date of the approval or disapproval;
  - (4) the signature of the tax assessor collector of the taxing unit, if the signature is required by the Tax Code, §31.11, and the date of the approval or disapproval.
- (d) The application form for tax refund shall contain the following affirmation above the signature of the applicant: “I hereby apply for the refund of the above described taxes and certify that the information I have given on this form is true and correct.”
- (e) The tax refund application shall also contain the following statement: “If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under the Texas Penal Code, §37.10.”
- (f) Collecting offices failing to prepare a tax refund form as required in subsection (a) of this section may be judged to be in compliance upon a showing to the comptroller that a tax refund form substantially equivalent to that required in subsection (a) of this section has been prepared.

**Source Note:** The provisions of this §9.3039 adopted to be effective March 24, 1982, 7 TexReg 1057; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective February 24, 2000, 25 TexReg 1393

### **9.3040. Tax Certificates**

- (a) All offices collecting ad valorem taxes shall prepare and issue tax certificates, upon the request of any person, as provided by Tax Code, §31.08.
- (b) The tax certificate shall include the following items of information:
- (1) the name and address of the collecting office and the name of the taxing unit(s) for which that office collects on the specified property;
  - (2) the name and address of the property owner;
  - (3) the description of the property for which the tax certificate is issued;
  - (4) the account number of the property for which the tax certificate is issued;
  - (5) the year for which delinquent taxes, penalties, and interest are due;
  - (6) if the specified property has received or is receiving special valuation based on its use, a statement that additional rollback taxes may become due as provided by Tax Code, Chapter 23;
  - (7) the amount of delinquent taxes, penalties, interest, and any known costs and expenses as provided by Tax Code, §33.48, due for each taxing unit;
  - (8) the date of the tax certificate; and
  - (9) the signature of the authorized officer of the collecting office.
- (c) The tax certificate shall include an affirmation by the authorized officer of the collecting office that a careful check of the tax records of the office has been made on the specified property and the tax certificate indicates the amount of delinquent taxes. The tax certificate shall also include a statement that property omitted from the appraisal roll as described under Tax Code, §25.21 is not included in the certificate and that a purchaser is absolved of liability for the taxes based on omitted property.
- (d) A tax certificate form must substantially comply with the requirements of this section.

**Source Note:** The provisions of this §9.3040 adopted to be effective March 24, 1982, 7 TexReg 1057; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective November 9, 2005, 30 TexReg 7229

### **9.3042. Request Forms for Separate or Joint Taxation**

- (a) Separate taxation of standing timber.
- (1) All appraisal offices and tax offices appraising property for purposes of ad valorem taxation shall prepare and make available forms for use by taxpayers to request separate taxation of standing timber from the land on which the timber is located, as provided in Tax Code, §25.10(c). The request filed with the appraisal office shall apply to all taxing units in which the specified property is located for which the office appraises.

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- (2) The request form for separate taxation of timber shall make provision for the following items of information:
- (A) a statement indicating that the request must be filed annually between January 1 and before May 1;
  - (B) the year for which the request is made;
  - (C) the name and address of the property owner filing the request or his agent, if applicable, and an indication whether the person owns an interest in the timber or the land;
  - (D) the name(s) and address(es) of all owners and whether their ownership is in the land or the timber involved;
  - (E) the description of the land which contains the standing timber and its location;
  - (F) a statement of what documents will be required to prove separate ownership of the standing timber and the land;
  - (G) the signature of the property owner or agent; and
  - (H) the date of the request.

- (3) The request for separate taxation form shall include the following affirmations.

- (A) "I hereby affirm that the standing timber is separately owned from the land on which it is located, each being owned by the persons identified in this request."
- (B) "I hereby request that the standing timber located on the land described in this request be listed on the appraisal records of the appraisal office separately from the land on which the timber is located."
- (C) "I certify that the information given on this form is true and correct."

(b) Separate taxation of undivided interests.

- (1) All appraisal offices and tax offices appraising property for purposes of ad valorem taxation shall prepare and make available forms for use by taxpayers to request separate taxation of an undivided interest as provided in Tax Code, §25.11(b). The request filed with the appraisal office shall apply to all taxing units in which the specified property is located for which the office appraises.

- (2) The request form for separate taxation of an undivided interest shall make provisions for the following items of information:

- (A) a statement indicating that the request must be filed between January 1 and before May 1;
- (B) the name and address of the property owner requesting the separate listing and his agent, if applicable;
- (C) the name(s) and address(es) of all other owners of the property involved;
- (D) a description of the property involved;
- (E) the property owner's proportionate interest in the property;
- (F) a statement of what documents will be required to prove ownership in the property and the proportion the owner's interest bears to the whole;
- (G) the signature of the property owner or agent; and
- (H) the date of the request.

- (3) The request for separate taxation form shall include the following affirmations.

- (A) "I hereby affirm that I own an undivided interest in the herein described property in the proportion stated in this request."
- (B) "I hereby request that my undivided interest in the specified property be listed on the appraisal records of the appraisal office separately from any remaining undivided interest."
- (C) "I certify that the information given on this form is true and correct."

(c) Joint taxation of mineral interests.

- (1) All appraisal offices and tax offices appraising property for purposes of ad valorem taxation shall prepare and make available forms for use by taxpayers to request joint taxation of separate interests in minerals, other than interests

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having a taxable value of less than \$500, as provided in Tax Code, §25.12(b). The request filed with the appraisal office shall apply to all taxing units in which the specified property is located for which that office appraises.

- (2) The request form for joint taxation of separate interests in minerals shall make provisions for the following items of information:
  - (A) a statement indicating that the request must be filed between January 1 and before May 1;
  - (B) the name and address of the designated operator requesting the separate listing and his agent, if applicable;
  - (C) an identification of the property involved;
  - (D) the type and amount of interest expressed in decimal form to be listed jointly in the name of the designated operator;
  - (E) if a portion of the nonroyalty mineral interest(s) is not intended to be listed jointly in the name of the designated operator, the name and address of the owner(s) of such interest(s) shall be listed;
  - (F) the signature of the designated operator or his agent;
  - (G) the date of the request; and
  - (H) a statement that a request for joint taxation may not be filed if the taxable value of the interest is less than \$500.
- (3) The request for joint taxation of mineral interests form shall include the affirmations found in subparagraphs (A) and (B) of this paragraph.
  - (A) “I hereby request that the separate mineral interests in the property described in this form be listed jointly in the manner specified herein.”
  - (B) “I certify the information given on this form is true and correct to the best of my knowledge and belief.”
- (d) Compliance by appraisal offices. Offices appraising property for purposes of ad valorem taxation that fail to prepare and make available request forms for separate taxation of timber, separate taxation of undivided interests, and joint taxation of mineral interests as required in subsections (a)–(c) of this section may be judged to be in compliance upon a showing to the comptroller that such forms substantially equivalent to those required in subsections (a)–(c) of this section have been prepared and made available.
- (e) The comptroller may provide model forms applicable to this section. Such forms may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts’ Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3042 adopted to be effective May 11, 1982, 7 TexReg 1697; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective February 3, 1998, 23 TexReg 799; amended to be effective October 3, 2010, 35 TexReg 8974

### **9.3044. Appointment of Agents for Property Tax Matters**

- (a) Except as otherwise provided by existing court order, law, or other comptroller rule, a property owner shall use comptroller form 50-162 to designate an agent for property tax matters pursuant to Tax Code, §1.111(a). Except as provided in subsection (b) of this section, forms required to be used by this section shall be used as adopted by the comptroller, without changes in form or substance including, but not limited to, content, font size, and pagination. For the purposes of this section, the term “property owner” includes a person who claims a legal interest in the property.
- (b) All appraisal districts shall prepare and make available copies of comptroller form 50-162 for property owners to use in designating agents for property tax matters. An appraisal district may pre-print the appraisal district’s name and address in the spaces designated for such information on form 50-162; however, no other changes or modifications may be made. An appraisal district may, if approved in advance in writing by the comptroller, make non-substantive modifications to form 50-162 for purposes of facilitating electronic delivery.
- (c) Designation of an agent to receive notices or other communications is not effective for any notice or other communication about a property that is mailed or sent by electronic means before the property owner’s written notice is filed with the appraisal district in accordance with Tax Code, §1.111(f). A written statement filed pursuant to Tax Code, §1.111(j) is not effective for any notice or other communication about a property that is mailed or sent by electronic means before the written statement is filed with the protest in accordance with Tax Code, §1.111(j). No written designation or request

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for delivery of tax bills pursuant to Tax Code, §1.111(f) is required for a mortgage lender who is authorized by a deed of trust executed by the property owner to pay taxes on the property.

- (d) For the purposes of the prohibition against designating more than one agent for a single item of property in Tax Code, §1.111(d), an item of property means the property included under a single appraisal district account number. Unless the appraisal district has separately listed an improvement or the property owner presents documentation to the appraisal district showing separate ownership of land and improvements, a property owner may not designate separate agents to represent land and improvements. A property owner may, however, designate a different agent for purposes of Tax Code, Chapter 41A, or any other matter as provided by law or other comptroller rule.
- (e) If a property owner directs delivery of tax bills or notices to an agent after the date appraisal records are certified, the chief appraiser, as soon as practicable after the designation is filed, shall notify the affected taxing unit of the property owner's name, the account number of the property, and the name and address of the agent designated for notice.
- (f) A property owner is not required to file a written designation of agent for a person who:
  - (1) acts as a courier for the property owner;
  - (2) prepares documents in a clerical capacity for the property owner;
  - (3) is an employee of the owner or of a corporate parent, affiliate, or subsidiary of the owner and is authorized by the owner to represent him; or
  - (4) is an attorney licensed to practice law in the State of Texas and retained by a property owner to represent him before the appraisal district or appraisal review board.
- (g) A person who owns property in more than one county may file a reproduction of the original signed appointment form with each appraisal district. If the chief appraiser has reason to question the authenticity of the document, the chief appraiser may require the property owner or the agent to provide the original for inspection.
- (h) Forms adopted by reference. The Comptroller of Public Accounts adopts by reference Appointment of Agent for Property Tax Matters (Form 50-162) and, for purposes of use as required by court order existing as of the date of amendment of this section, Appointment of Agent for Single-Family Residential Property Tax Matters (Form 50-241). Copies of the forms can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528.
- (i) Other forms. The comptroller may also prescribe additional forms applicable to this section. Any such forms may be revised at the discretion of the comptroller. Copies of the forms can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528.
- (j) Designations signed and filed with an appraisal district prior to the effective date of amendment of this section, until revoked as provided by law, continue in effect to the extent that such designations are consistent with existing law or, as applicable, court order.

**Source Note:** The provisions of this §9.3044 adopted to be effective May 18, 1988, 13 TexReg 2165; amended to be effective February 3, 1989, 14 TexReg 454; amended to be effective January 29, 1990, 15 TexReg 263; amended to be effective June 22, 1990, 15 TexReg 3350; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective March 24, 1994, 19 TexReg 1831; amended to be effective October 31, 2006, 31 TexReg 8844; amended to be effective February 24, 2008, 33 TexReg 1603; amended to be effective January 3, 2010, 34 TexReg 9473; amended to be effective October 3, 2013, 38 TexReg 6602

### **9.3045. Application for September 1 Inventory Appraisal**

- (a) All appraisal districts shall prepare and make available forms for taxpayers to use in requesting September 1 inventory appraisal pursuant to Tax Code, §23.12(f).
- (b) An appraisal district may, in lieu of creating a form, use a comptroller-prescribed, model form.
- (c) The comptroller may provide model forms applicable to this section. Such forms may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3045 adopted to be effective June 22, 1990, 15 TexReg 3350; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective October 3, 2010, 35 TexReg 8975



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## 9.3048. Publication of Budget

- (a) In publishing the notice summarizing the appraisal district budget under the Tax Code, §6.062, the chief appraiser shall include the following:
  - (1) the time, date, and place of the public hearing on the proposed budget;
  - (2) the total amount of the proposed budget;
  - (3) the amount of increase proposed from the budget adopted for the current year;
  - (4) the number of employees compensated under the current budget and the number of employees to be compensated under the proposed budget, provided that the number of employees shall be expressed as the number of full-time equivalent employees;
  - (5) the name, address, and telephone number of the appraisal district; and
  - (6) at the chief appraiser's option, a statement explaining any significant differences between the current and the proposed appraisal district budget.
- (b) The chief appraiser may use the comptroller-prescribed, model form applicable to this section or use a different form that sets out the information listed in subsection (a) of this section in the same language and sequence as the model form.
- (c) In special circumstances the chief appraiser may use a form that provides additional information, deletes information required by this section, or sets out the required information in different language or sequence than that required by this section if the form has been previously approved by the comptroller.
- (d) The comptroller's model form applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3048 adopted to be effective January 29, 1990, 15 TexReg 264; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective October 3, 2010, 35 TexReg 8975

## 9.3049. Change of Use Determination

- (a) The chief appraiser shall include the following information in a notice of a change of use determination required under Tax Code, §§23.46, 23.55, 23.76, or 23.9807:
  - (1) the name, street address, mailing address (if different), and telephone number of the appraisal district office;
  - (2) the property owner's name and a description of the affected property;
  - (3) a statement specifying the determination that has been made by the chief appraiser and identifying the statutory provision(s) under which such determination has been made;
  - (4) the year the property will begin to be taxed at its market value;
  - (5) a statement that the taxpayer may protest the decision to the appraisal review board;
  - (6) a statement that the deadline for filing a written protest is not later than 30 days after the date of the notice;
  - (7) a statement that if the property owner does not protest or the protest is denied, additional taxes and interest will be billed and subject to penalties and additional interest and a statement that a tax lien has already attached to the property to secure payment of the additional taxes, interest, and penalties;
  - (8) the number of years for which the additional taxes are being imposed; and
  - (9) a statement that the taxpayer may contact each taxing unit's tax assessor to determine the amount of additional taxes, interest, and penalties.
- (b) The chief appraiser may use the comptroller-prescribed, model form applicable to this section or use a different form that sets out the information listed in subsection (a) of this section in the same language and sequence as the model form.
- (c) In special circumstances the chief appraiser may use a form that provides additional information, deletes information required by this section, or sets out the required information in different language or sequence than that required by this section if the form has been previously approved by the comptroller.

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- (d) The comptroller's model form applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3049 adopted to be effective January 29, 1990, 15 TexReg 264; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective October 5, 2010, 35 TexReg 8975

### **9.3052. Request Form for Separate Taxation of Stockholders' Interest in Cooperative Housing**

- (a) All appraisal offices shall prepare and make available a form for use by a cooperative housing cooperation in requesting separate taxation of stockholders' interests as provided in Texas Property Tax Code, §23.19.
- (b) The form shall contain spaces for the corporation to provide the following information:
- (1) the name and address of the cooperative housing corporation;
  - (2) the property description and street address of the property for which separate appraisal is requested;
  - (3) the name and address of the corporation's agent;
  - (4) a statement that the corporation must attach to the form the following documents:
    - (A) a list of names, addresses, and proportionate share of all stockholders in the corporation, and those stockholders that reside at the designated property;
    - (B) a resolution from the corporation's board of directors certifying that the stockholders have approved the request for separate appraisal;
    - (C) a diagrammatic floor plan of the improvements on the property; and
    - (D) a survey plot map of the land showing location of the improvements on the land;
  - (5) the signature of the corporation's agent; and
  - (6) the date of the request.
- (c) The form for separate appraisal shall contain a statement indicating that by signing the form the applicant states that he/she is qualified to sign for the corporation, and must include the following statement in bold type: "If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Penal Code, §37.10."
- (d) The form shall contain statements to indicate:
- (1) that the corporation need not request separate appraisal annually;
  - (2) that the applicant must file the initial request for separate appraisal in writing before March 1; and
  - (3) that the chief appraiser may require the corporation to submit or verify a list of stockholders, their interests, and residency at least annually.
- (e) Where the appraisal office requests additional information, the appraisal office shall note the type(s) of information requested on the form. Otherwise, the form shall be prepared as a separate form from any other form.
- (f) The appraisal office shall note on the form the amount of fee, if any, that the office will charge for separately appraising the interests in a cooperative housing corporation.

**Source Note:** The provisions of this §9.3052 adopted to be effective December 3, 1987, 12 TexReg 4368; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective July 15, 2012, 37 TexReg 5135

### **9.3054. Request to Postpone Tax Bill**

- (a) Each collecting office shall prepare and make available to the public forms for requesting the tax office to postpone issuing a tax bill until the amount of unpaid tax reaches \$15. The form shall require the taxpayer to provide the following:
- (1) the property owner's name, current mailing address, and telephone number;
  - (2) a description of the property, the property account number, or a copy of tax or appraisal office correspondence that identifies the property; and
  - (3) the title or capacity of the person who signs the form.
- (b) The collector shall include on the form:

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- (1) instructions that state that if the property owner files the form, no penalty or interest will accrue on taxes until the total amount of tax owed to all units for which the collector collects taxes reaches \$15 or more; and
  - (2) the name, street address, mailing address if different, and telephone number of the collector's office.
- (c) The collector may use the comptroller-prescribed, model form applicable to this section or use a different form that requires the information and sets out the instructions required by this section in the same language and sequence as the model form.
  - (d) In special circumstances the collector may use a form that provides additional information, deletes information required by this section, or sets out the required information in different language or sequence than that required by this section if the form has been previously approved by the comptroller.
  - (e) The comptroller's model form applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3054 adopted to be effective January 29, 1990, 15 TexReg 265; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective October 5, 2010, 35 TexReg 8976

### **9.3059. Certification of Appraisal Roll**

- (a) The chief appraiser shall certify a copy of the annual appraisal roll for the appraisal district to the Comptroller of Public Accounts. The appraisal roll shall be submitted to the comptroller by the deadlines and in the form and manner provided in the Electronic Appraisal Roll Submission Record Layout and Instructions Manual published by the comptroller.
- (b) If requested in writing to the director of the comptroller's property tax assistance division by the chief appraiser at least 30 days before the applicable deadline for submission of an appraisal roll, the deadlines may be waived, but only if the appraisal district can show good cause for late submission.
- (c) The director of the comptroller's property tax assistance division shall deliver a written determination of the request for waiver provided in subsection (b) of this section, by e-mail, facsimile transmission or regular first-class mail. An appraisal district may appeal the denial of a waiver to the comptroller. The comptroller shall decide each appeal by written order and shall deliver a copy of the order to the chief appraiser by e-mail, facsimile transmission or regular first class mail.
- (d) The Comptroller of Public Accounts will periodically revise the Electronic Appraisal Roll Submission Record Layout and Instructions Manual. Copies of this publication can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528. Copies may also be requested by calling the toll-free number 1-800-252-9121. In Austin, call (512) 305-9999. E-mail requests may be directed to ptad.ears@cpa.texas.gov\*.

**Source Note:** The provisions of this §9.3059 adopted to be effective September 5, 2005, 30 TexReg 5375; amended to be effective April 11, 2010, 35 TexReg 2857

**\*Note:** For clarity purposes, the email address in the original text of this rule has been replaced with the current email address from the Comptroller's office which changed effective Jan. 1, 2015. The email address in the original text of the rule is ptad.ears@cpa.state.tx.us, which no longer exists.

### **9.3060. Installment Payment of Taxes on Property Located Within a Disaster Area**

- (a) Any notice under Tax Code, §31.032(b) shall be in writing.
- (b) The limit on gross receipts under Tax Code, §31.032(a)(1)(A)(ii) as provided by Tax Code, §31.032(h) will be published on the comptroller's website.

**Source Note:** The provisions of this §9.3060 adopted to be effective March 18, 1996, 21 TexReg 1890; amended to be effective December 4, 2011, 36 TexReg 8040

### **9.3064. Public Notice of Protest and Appeal Forms**

- (a) The comptroller will make available to appraisal districts a model form of the notice required by Tax Code, §41.70. A chief appraiser may use the comptroller's model form in complying with Tax Code, §41.70. The comptroller's model form will include, at a minimum:
  - (1) general identification of grounds on which a property owner may protest under Tax Code, Chapter 41;
  - (2) a description of the appraisal district's informal review process, if any;
  - (3) a description of the appraisal review board and the process of appeal to the appraisal review board;
  - (4) a description of the appraisal review board hearing process;
  - (5) information regarding deadlines for filing protests with the appraisal review board;

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- (6) information regarding methods of appealing an appraisal review board order;
  - (7) information regarding the payment of taxes pending an appeal of an appraisal review board order;
  - (8) identification of the appraisal district's contact information; and
  - (9) a statement that additional information can be obtained from the comptroller's office.
- (b) The chief appraiser may duplicate the comptroller's model form or use a different form that sets out the information listed in the model form in the same language and sequence as the model form. Without prior approval from the comptroller, the appraisal district may:
- (1) add additional language that more fully describes its protest procedures;
  - (2) substitute the actual dates on which deadlines for the year fall for the deadlines set out in the model form;
  - (3) add the deadline for filing a protest concerning property omitted from the appraisal roll; and
  - (4) modify the form as necessary to correctly set out its name, address, and telephone number.
- (c) In special circumstances, if approved by the comptroller in writing prior to publication, the chief appraiser may use a form that provides additional information other than that contained in the model form, deletes information required by the model form, or sets out the required information in different language or sequence than that required by the model form.
- (d) The headline of the published notice shall be in 18-point type or larger. Body copy for the notice shall be in 10-point type or larger.
- (e) The comptroller's model form applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.3064 adopted to be effective February 3, 1998, 23 TexReg 800; amended to be effective October 6, 2010, 35 TexReg 8976

## SUBCHAPTER I. VALIDATION PROCEDURES

### 9.4001. Valuation of Open-Space and Agricultural Lands

The State Property Tax Board adopts by reference the Manual for the Appraisal of Agricultural Land, as amended December 13, 1989, the amendments to be effective on January 13, 1990. This document is published by and available from the State Property Tax Board, 4301 Westbank Drive, Austin, Texas 78746-6565.

**Source Note:** The provisions of this §9.4001 adopted to be effective April 30, 1980, 5 TexReg 1491; amended to be effective February 10, 1982, 7 TexReg 359; amended to be effective March 27, 1982, 7 TexReg 1059; amended to be effective April 26, 1983, 8 TexReg 1218; amended to be effective January 21, 1986, 11 TexReg 93; amended to be effective April 19, 1988, 13 TexReg 1611; amended to be effective February 21, 1990, 15 TexReg 658; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### 9.4005. Formulas for Interstate Allocation of the Tax Value of Railroad Rolling Stock

The value of railroad stock will be allocated to this state in the proportion of the total market value of the rolling stock that fairly reflects its uses in this state during the preceding tax year by ascertaining the average number of cars found to be habitually within the borders of the state or the average amount of the property habitually used or employed in the state; or, when such method will produce a more just, fair, equitable, and lawful result, by ascertaining the proportion of the total distance in miles of main line track, branch line tract, and side, yard, and spur track located in the state which the railroad company operates in comparison with the total distance in miles of such tract which the railroad company operates.

**Source Note:** The provisions of this §9.4005 adopted to be effective May 26, 1980, 5 TexReg 1852; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

### 9.4009. Appraisal of Recreation, Park, and Scenic Land

The State Property Tax Board adopts by reference "Guidelines for the Appraisal of Recreational, Park, and Scenic Land" to be effective August 3, 1982. This document is published by and available from the State Property Tax Board, 9501 IH 35 North, P.O. Box 15900, Austin, Texas 78761.

**Source Note:** The provisions of this §9.4009 adopted to be effective August 2, 1982, 7 TexReg 2709; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

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## 9.4010. Appraisal of Public Access Airport Property

The State Property Tax Board adopts by reference “Guidelines for the Appraisal of Public Access Airport Property” to be effective January 1, 1983. This document is published by and available from the State Property Tax Board, 9501 IH 35 North, P.O. Box 15900, Austin, Texas 78761.

**Source Note:** The provisions of this §9.4010 adopted to be effective January 4, 1983, 7 TexReg 4463; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

## 9.4011. Appraisal of Timberlands

Adoption of the Manual for the Appraisal of Timberland. This manual sets out both the eligibility requirements for timberland to qualify for productivity appraisal and the methodology for appraising qualified timberland and restricted use timberland. Appraisal districts are required by law to follow the procedures and methodology set out in this manual. The Comptroller of Public Accounts adopts by reference the Manual for the Appraisal of Timberland. Copies of this manual can be obtained from the Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528. Copies may also be requested by calling our toll-free number 1-800-252-9121. In Austin, call (512) 305-9999. From a Telecommunications Device for the Deaf (TDD), call 1-800-248-4099, toll free. In Austin, the local TDD number is (512) 463-4621. This manual and those that have been superseded are available from the Comptroller’s office as well as the State Archives.

**Source Note:** The provisions of this §9.4011 adopted to be effective May 9, 1983, 8 TexReg 1410; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481; amended to be effective August 6, 1996, 21 TexReg 7046; amended to be effective May 3, 2004, 29 TexReg 4229

## 9.4013. Residential Real Property Inventory Appraisal

- (a) A residential real property inventory is one or more platted lots or tracts, and improvements, if any, meeting the following criteria:
  - (1) they are under the same ownership;
  - (2) they are contiguous to one another or are located in the same subdivision of development;
  - (3) they are held for sale in the ordinary course of business;
  - (4) they are subject to zoning restrictions limiting them to residential use, or, if not subject to zoning, they are:
    - (A) subject to enforceable deed restrictions limiting them to residential use; or
    - (B) their highest and best use is as residential property;
  - (5) they have never been occupied for residential purpose; and
  - (6) they are not presently leased or producing income.
- (b) A residential real property inventory shall be appraised as a unit at the price for which it would transfer to another person continuing the business, using generally accepted techniques for the appraisal of subdivisions and similar properties.

**Source Note:** The provisions of this §9.4013 adopted to be effective August 22, 1988, 13 TexReg 3877; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

## 9.4031. Manual for Discounting Oil and Gas Income

- (a) The Comptroller of Public Accounts adopts a Manual for Discounting Oil and Gas Income, with text as follows.
- (b) Basis of the Manual for Discounting Oil and Gas Income.
  - (1) Property Tax Code, §23.175, enacted by the 73rd Legislature, 1993, requires the comptroller’s office to develop and distribute to each appraisal district an appraisal manual that specifies the methods and procedures to calculate the present value of oil and gas properties using discounted future income. The 82nd Legislature, 2011, amended Property Tax Code, §23.175 to require the comptroller’s office to specify the formula to be used in computing the limit on the price for an interest used in the second through the sixth year of an appraisal, beginning with the 2012 tax year. The formula is specified in subsection (p) of this section (Appendix 5).
  - (2) Section 23.175 also directs each appraisal district to use the specified methods and procedures.
- (c) Introduction.

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- (1) This manual explains the concept of discounting, the discounted cash flow (DCF) equation, DCF appraisal, and three acceptable techniques for estimating a “discount rate” in the DCF method. The numbers used in the calculations are for illustrative purposes only.
  - (2) The three acceptable techniques for estimating discount rates are:
    - (A) market surveys;
    - (B) oil and gas sales analysis; and
    - (C) weighted average cost of capital (WACC), also called “band of investment.”
  - (3) Together, these techniques provide a range of discount rates. The appraiser must estimate the risk for each oil or gas property to assign a discount rate from the discount rate range.
  - (4) Subsections (l)–(o) of this section (Appendices 1–4) provide examples to illustrate DCF appraisal, the WACC estimating technique, a standard deviation analysis, and a description of property specific risk factors.

(d) Discounting.

- (1) Because investors prefer immediate cash returns over future cash returns, investors pay less for future cash flows—they “discount” them. The amount investors discount the future cash flows depends on the length of time until the cash is due, the amount of risk that the cash will not be tendered when due, and the rate of return available from other comparably risky investments. This discounting procedure converts future income to present value, usually using annual discount factors. The discount factor for each successive year declines to reflect the reduced value of revenue received in the future. The appraiser calculates the present worth of the forecast revenue stream by multiplying the projected net income (cash flow) for each year by the calculated discount factor for that year. These discount factors are derived from the discount rate (also known as the yield rate), and the process is known as discounted cash flow (DCF) analysis.
- (2) The International Association of Assessing Officers in Property Appraisal and Assessment Administration (1990) defines “discount rate” as: “The rate of return on investment; the rate an investor requires to discount future income to its present worth. It is made up of an interest rate and an equity yield rate. Theoretical factors considered in setting a discount rate are the safe rate earned from a completely riskless investment (this rate may reflect anticipated loss of purchasing power due to inflation) and compensation for risk, lack of liquidity, and investment management expenses. The discount rate is most often estimated by band-of-investment analysis or a sales comparison analysis that estimates typical internal rates of return.”
- (3) The discount rate is a key variable in discounted cash flow analysis, making correct rate selection crucial. The market’s expectations are critical when choosing a discount rate. According to the Appraisal of Real Estate by the Appraisal Institute (1992): “The selection of the yield discount rate is critical to DCF analysis. To select an appropriate rate an appraiser must verify and interpret the attitudes and expectations of market participants, including buyers, sellers, advisers, and brokers. Although the actual yield on an investment cannot be calculated until the investment is sold, an investor may set a target yield for the investment before or during ownership. Historical yield rates derived from comparable sales may be relevant, but they reflect past, not future, benefits in the mind of the investor and may not be reliable indicators of current yield. Therefore, the selection of yield rates for discounting cash flows should focus on the prospective or forecast yield rates anticipated by typical buyers and sellers of comparable investments. An appraiser can verify investor assumptions directly by interviewing the parties to comparable sales transactions or indirectly by estimating the income expectancy and likely reversion for a comparable property and deriving a prospective yield rate.”

(e) Discounted cash flow appraisal.

- (1) The DCF method is versatile and widely used to appraise income producing property. An appraiser using DCF first projects an anticipated net income for each year of the property’s remaining economic life. Each annual cash flow is discounted to present value, and then all the present values are added to obtain the total market value of the real property interest being appraised.
- (2) The DCF equation is expressed as follows.  
[Attached Graphic](#)
- (3) To estimate the present value (PV), an estimate of the income (cash flow) to be received in each period is necessary. The number of periods,  $n$  (usually years), used in the analysis is determined by the number of years that the mineral property is expected to produce a positive net income.



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- (4) There are many variations on the DCF formula. The formulas vary based on the time the money is received, i.e., continuously, beginning of period, middle of period or end of period. The period may be continuous, daily, monthly, quarterly, biannual, or annual. Many oil properties are evaluated using an annual mid-period discounting variation of the DCF formula. The appropriate present-worth factor for mid-year DCF analysis is:

[Attached Graphic](#)

- (5) Subsection (l) of this section (Appendix 1) illustrates how a discounted cash flow is calculated, using a midyear factor, for a mineral property.
- (f) Discount rate components.
- (1) Components. The discount rate used in discounted cash flow analysis has several components. These include:
- (A) inflation rate;
  - (B) risk-free component;
  - (C) general risk premium; and
  - (D) property-specific risk premium.
- (2) The inflation rate. The annual rate of price change for a basket of consumer goods. Inflation is normally measured by the Consumer Price Index for All Urban Consumers (CPI-U), calculated by the United States Bureau of Labor Statistics. The inflation rate is the most basic component of a discount rate. An investor's rate of return must equal the rate of inflation just to break even in real dollar terms.
- (3) The risk-free component. A return to compensate the investor for a loss of liquidity. This component can also be defined as the risk-free rate minus the inflation rate. The risk-free rate is made up of the inflation rate plus a return to reimburse the investor for a loss of liquidity and is measured by the yield to maturity on federal government securities with a maturity period comparable to the investment under consideration (oil or gas reserves in this case). The market perceives these securities as risk-free for all practical purposes since they are issued by the United States government.
- (4) General risk premium.
- (A) A return to compensate the investor for assuming diversified company-wide risk. The weighted average cost of capital (WACC) minus the risk-free rate is the general risk premium. The WACC is measured by weighting the typical oil company debt and equity costs by the typical oil company debt and equity capital structure percentages, and then adding the weighted costs. If one were appraising companies, the WACC would be the discount rate, since it reflects the market's expected yields from the stock and debt of a company. Calculation of a WACC will be explained in more detail later in this manual.
  - (B) For property tax purposes, appraisers estimate the value of individual mineral reserves, not the value of oil companies. Buyers of mineral reserves usually perceive these individual reserves as riskier than the stock and debt of an entire company. Companies can spread their risk over many individual mineral reserves and often over several kinds of assets (some of which are unrelated to the oil or gas business). This asset diversification reduces the company's risk and, as a result, the WACC derived from company financial data is usually lower than an individual producing property's discount rate. However, the WACC is always higher than the risk-free rate. This increase in the rate is a general risk premium to reward investors for assuming the diversified company-wide risk.
- (5) Property-specific risk premium. A return that compensates the investor for assuming the unique risks associated with a particular mineral producing property. The discount rate minus the WACC is the property-specific risk premium. Investors demand a premium above the WACC to compensate them for this individual property risk. For certain high-risk properties, this premium can be quite high. See subsection (o) of this section (Appendix 4) for a list of property-specific risk factors.
- (6) Component summary. These discount rate components can be summarized:
- INFLATION RATE + RISK FREE COMPONENT + GENERAL RISK PREMIUM  
+ PROPERTY SPECIFIC RISK PREMIUM = DISCOUNT RATE.

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- (A) There are other ways to “build up” a discount rate. This method’s advantage is that the first three components are quantifiable from public data. The property-specific risk premium may be derived from available data in some cases, but in general, the appraiser must estimate it.
  - (B) Refer to subsection (o) of this section (Appendix 4) for mineral-property conditions that should be considered when estimating the property-specific risk premium.
- (g) Using the three techniques.
- (1) Components contained in the three techniques.
    - (A) Market surveys and sales analysis result in rates that include all of the discount rate components. However, in these two techniques, the rate included for the property-specific risk premium is the typical rate for the properties included in the survey or sales analysis. The appraiser must estimate the property-specific risk premium (unless the sales sample is directly comparable to the property being appraised) and adjust for atypically high or low risk. This means that the appraiser must reduce the risk premium for properties with less than the typical risk and increase the risk premium for properties with more than the typical risk.
    - (B) The third technique (WACC) produces a rate that does not contain a component for property-specific risk. Because it lacks this component, the typical WACC of potential purchasers sets a minimum value for a discount rate and the appraiser must calculate the typical WACC of potential purchasers to know this lower limit. On a case-by-case basis, the appraiser should exclude oil companies from the WACC calculation if they cannot participate in the market for the property he or she is currently appraising. For instance, small companies may not be able to bid on certain very valuable oil and gas properties because of insufficient capital. A typical WACC for larger oil companies would establish an appropriate minimum discount rate for appraising these properties.
    - (C) An investor should not buy a property at a lower discount rate than his or her WACC, otherwise the investor’s net worth will decrease. The appraiser must add the property-specific risk premium to the typical WACC of potential purchasers to develop a discount rate. See subsection (o) of this section (Appendix 4) for a list of property-specific risk factors.
  - (2) Developing a range.
    - (A) Ideally, the appraiser should use these three techniques simultaneously to develop a range of discount rates. The typical WACC sets the lower limit, while surveys and direct sales analysis provide a set of discount rates that the appraiser can use as a database that will help to estimate a midrange discount rate and an upper limit to the discount rate. Examples of these techniques can be found in subsections (l)–(p) of this section (the appendices).
    - (B) Some mineral properties may appear to sell at or below the purchaser’s WACC. There are several reasons that a mineral property may appear to change hands at a discount rate equal to or less than the WACC. When a buyer (or appraiser) reduces the cash flows to account for reserve recovery risk the discount rate will not reflect the risk, but the purchase price will. To calculate a discount rate that is comparable to discount rates from other sales, the appraiser must quantify the risk adjustment and add it back to the cash flows. This discount rate will be higher than the non-risk-inclusive rate.
    - (C) Atypical income tax deductions, or abnormally high or low overhead can also create an artificially high or low discount rate. When faced with market evidence that would indicate a discount rate at less than a company’s cost of capital, the appraiser should review all other appraisal parameters to determine why an abnormally low discount rate is indicated. An understated income stream is the most obvious reason. The appraiser may be able to adjust the cash flows and derive a market discount rate or may delete the sale from consideration.
- (h) Market surveys.
- (1) An appraiser may use market surveys as an indicator of the discount rate. Many studies and surveys are published to help the appraiser estimate an appropriate discount rate or range of rates for appraising oil and gas properties. The Society of Petroleum Evaluation Engineers’ (SPEE) Annual Survey and the Western States Petroleum Association’s (WSPA) Analysis of Oil and Gas Property Transfers and Sales and Derivation of a Band of Investment are good examples.
  - (2) The SPEE survey asks producers’, consultants’, and bankers’ opinions on future prices, cost escalation and economic indices (including the discount rate) used in petroleum property evaluation.

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- (3) The WSPA study, conducted by Richard J. Miller and Associates, consists of two parts: an analysis of oil and gas property transactions and sales occurring in California from 1984 through the current year and an analysis of the weighted average cost of capital (WACC) or “Band of Investment” of a representative group of companies for the same years. The WACC analysis is based on public data.
- (i) Developing a discount rate from sales.
- (1) Basic steps. To develop a discount rate from sales requires three basic steps:
- (A) obtain recent sales prices from a variety of oil and gas producing properties;
  - (B) develop cash flow projections for each property; and
  - (C) calculate the internal rate of return (IRR) for each sale. This is also known as the discounted cash flow return on investment (DCFROI).
- (2) Sales sources. Information about sales can be obtained from a variety of sources, but the best source is the buyer or seller. Other sources that list sales of oil and gas property include the Texas Railroad Commission, Oil and Gas Journal 300, Strevig and Associates, private firms and oil and gas companies. It is important to remember that the sale of an oil or gas property must be a market transaction when developing a discount rate from sales.
- (3) Cash flow projections. After obtaining verified sales prices, the appraiser develops cash flow projections for each property. To the extent possible, the appraiser must talk with the parties to each sale to determine their expectations of the property and take those into account when making projections. The validity of the derived discount rate is a direct function of the amount of information obtained from the buyer and seller about their cash flow projections. The appraiser must incorporate this information into his or her projections. If the appraiser’s projections differ from the buyer’s and seller’s expectations, the discount rate derived from the sale will be invalid.
- (4) Calculating the IRR.
- (A) The third step in developing a discount rate from sales is to calculate the internal rate of return (IRR) for each sale. The IRR is the yield (discount) rate at which the present value of a cash income stream equals the present value of the cash expenditures (the sales price in our analysis) necessary to produce that income stream. This discount rate is prospective; it does not depend on the historical performance of the property, but on the market participants’ expectations of future performance. The discount rate at which the present value of the cash flows equals the sales price can be determined by trial and error. However, there are several calculators and personal computer software packages that can solve for the discount rate (IRR).
  - (B) Although computational procedures may vary slightly, this measure is also referred to as the profitability-index and investor’s method. The IRR recognizes that funds received now are more valuable than those received at some future time. The investment outlay can be regarded as borrowed funds and the pre-tax cash flow as the payment of principle plus compound interest on the investment.
- (j) Weighted average cost of capital.
- (1) Definition. A widely used method for deriving a pre-tax base discount rate for valuation purposes is the band of investment, or WACC technique. The basis for this analysis is the financial data from a broad sample of oil companies that derive a majority of their operating revenues from oil and gas production. Since petroleum property valuation typically involves discounting cash flows over a long period of time, a long-term cost of capital is most appropriate for developing an oil or gas property discount rate. Thus, the appraiser should incorporate a broad time series of data to approximate a long-term cost of capital.
- (2) Required calculations. Four sets of calculations are required to determine the WACC.
- (A) The typical capital structure is derived and expressed as a proportion of debt and equity.
  - (B) The typical cost of outstanding debt is calculated based on bond yields.
  - (C) The typical cost of equity is computed using the Capital Asset Pricing Model (CAPM) or another method such as the DCF Model.
  - (D) Debt and equity costs are weighted according to the typical capital structure percentages and added to derive a typical cost of capital.
- (3) Capital structure.

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- (A) “Capital structure” describes in percentage terms the sources of funds (capital) used to purchase the assets necessary to operate a company. The capital structure of any company consists of debt and equity. The debt portion consists of long-term debt (represented by outstanding bonds) and preferred stock, while the equity portion consists of outstanding common stock. If the company is funded by debt and equity of equal value, the capital structure is 50% debt and 50% equity.
- (B) To estimate a discount rate for mass-appraisal purposes, the appraiser should use the typical market capital structure for a representative group of major and independent oil companies that derive a majority of their operating revenues from oil and gas production.
- (4) Cost of debt. The yield-to-maturity is the best approximation of the cost of debt capital. This yield is observable in the marketplace and can be found by referring to Standard and Poor’s Corporation Bond Guide, Moody’s Bond Report, or a comparable publication.
- (5) Cost of equity.
- (A) The CAPM is the preferred approximation of equity cost since it considers both historical market yields and current expectations, plus a market-derived equity risk factor. The CAPM method measures the cost of equity by considering that an investor’s required rate of return on common stock is comprised of a risk-free return plus a risk-adjustment factor related to the specific stock. This is represented by the following equation:  $K = R_{fc} + B(R_m - R_{fh})$  where:  $K$  = cost of equity (after tax), %/year;  $R_{fc}$  = current risk-free rate, %/year;  $R_m$  = historic market return on equities, %/year;  $R_{fh}$  = historic market return on long-term government bonds, %/year;  $B$  = BETA coefficient.
- (B) The current risk-free rate ( $R_{fc}$ ) is typically based on current long-term government securities, i.e., the yield-to-maturity observed on an annual basis on a default-free treasury bond, note, or bill of the relevant time period. For oil and gas property appraisal, the yield on a long-term bond is an appropriate measure of the risk-free rate.
- (C) The historical market return on equities ( $R_m$ ) on common stocks and the historical arithmetic mean on long-term government bond income returns ( $R_{fh}$ ) can be obtained from Ibbotson Associates’ Stock, Bonds, Bills and Inflation. The beta coefficient ( $B$ ) measures market risk by regressing the stock’s total return against the market’s total return. A more detailed description of the beta calculation can be found in the Ibbotson Associates report. The beta coefficient value can be obtained from Value Line Publishing, Incorporated’s The Value Line Investment Survey, Standard and Poor’s Corporation’s S&P Stock Reports and similar investment services.
- (D) The difference between the historical risk-free ( $R_{fh}$ ) and market ( $R_m$ ) rates of return is a measure of the non-systematic or non-market related risk caused by changes specific to the companies comprising the stock rate of return sample and is, in effect, an equity risk premium. Note that two different risk-free rates of return are used in the CAPM. The current risk-free rate ( $R_{fc}$ ) is used to acknowledge the expectational function of the model. The historical risk-free rate ( $R_{fh}$ ) is used in conjunction with the historical market return for the same time period when calculating the equity risk premium.
- (E) The cost of equity resulting from this model is a nominal (current dollar) after tax rate. Conversion to a nominal, pre-tax rate requires dividing the equity cost ( $K$ ) by one minus the federal statutory income tax rate for petroleum companies. The income tax rate is presently 35%. This is represented by the following equation:  $K(\text{pre-tax}) = K/(1-.35)$ . If the appraiser calculates a typical effective income tax rate from a representative sample of petroleum companies that could participate in the market for the property that he or she is appraising, the appraiser may substitute that typical effective income tax rate for the statutory rate.
- (6) Weighting debt and equity costs.
- (A) Once capital structure, debt, and equity costs are determined, the final step in deriving the WACC is to weight the cost of debt and equity by the proportional share each has in the overall capital structure. This is represented by the following equations.
- [Attached Graphic](#)
- (B) The WACC estimating technique is illustrated in subsection (m) of this section (Appendix 2).
- (7) Final discount rate selection.
- (A) As discussed earlier, the typical WACC of potential purchasers sets the lower end of the discount rate range. To help establish the upper end of the discount rate range, the appraiser can calculate a standard

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deviation of all the discount rates indicated by the sales in the sales sample and the survey. One standard deviation above and below the mean contains 68% of all the observations in a normally distributed set of data. Two standard deviations above and below the mean contains over 99% of all the observations in a normally distributed set of data. The data may not be normally distributed. Even so, this kind of analysis may help the appraiser to establish the upper end of the discount rate range.

- (B) Very high-risk properties (for example, a one-well lease with high water production near the end of its economic life) may be discounted by the market at two standard deviations above the mean. Properties with lesser risk will have correspondingly lower discount rates. One standard deviation above the mean may establish an upper limit for properties in a typical risk-range. The mean or median of the discount rates from the sales analysis and the survey indicates the mid-range discount rate.
- (C) For a standard deviation analysis to have meaning in selecting an upper limit to the discount rate range, the survey or sales data set must contain properties with broadly varying risk. A high-end discount rate selected by this method will not apply to very risky properties (it will be too low) unless these risky properties are represented in the sales data set used in the analysis.
- (D) To select a discount rate for an individual property, the appraiser must assess the property-specific risk inherent in the property. Subsection (o) of this section (Appendix 4) lists risk factors that should be taken into account.

(k) Summary.

- (1) This manual describes methods and procedures used to calculate the present value of oil and gas properties using discounted future income. The discounted cash flow method, DCF, is the most widely used method to appraise mineral properties.
- (2) Within the DCF equation, there are three generally accepted techniques for estimating a discount rate: market surveys, oil and gas sales analysis and the weighted average cost of capital. Ideally, the appraiser should use these three techniques simultaneously to develop a range of discount rates.
- (3) The evaluation of oil and gas properties demonstrates the importance of viewing a discount rate in the context of the entire appraisal, including the production decline rate, price, and cost parameters. The discount rate should not be considered an isolated variable, for it is only one component of a complex interaction of variables that collectively determine an estimate of value.

(l) Appendix 1.

[Attached Graphic](#)

(m) Appendix 2.

[Attached Graphic](#)

(n) Appendix 3.

[Attached Graphic](#)

(o) Appendix 4.

[Attached Graphic](#)

(p) Appendix 5.

[Attached Graphic](#)

**Source Note:** The provisions of this §9.4031 adopted to be effective March 31, 1994, 19 TexReg 1997; amended to be effective December 4, 2011, 36 TexReg 8040

NOTE: The Comptroller of Public Accounts publishes the *Manual for Discounting Oil and Gas Income* which is available on the Comptroller of Public Accounts website at [comptroller.texas.gov/taxinfo/proptax/pdf/96-1703.pdf](http://comptroller.texas.gov/taxinfo/proptax/pdf/96-1703.pdf).

## 9.4033. Allocation of Value

- (a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

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- (1) Commercial instrument or commercial equipment—Tangible personal property used for a business purpose, which includes, but is not limited to, commercial and business aircraft, rolling stock not owned or leased by a railroad, motor vehicle, shipping containers, vessels and watercraft (except for special purpose vessels and watercraft used as an instrumentality of commerce as defined in Tax Code, §21.031), mobile construction or drilling equipment, and mobile equipment of any other sort. The term does not include goods, wares, ores, or merchandise held for sale or resale, stored, warehoused, or in the process of assembly, manufacture, or refinement on January 1.
  - (2) Jurisdiction to tax—The legal power to levy a property tax on a property, regardless of whether the power to tax is exercised.
  - (3) Situs jurisdiction—A taxing unit, state, or nation that has jurisdiction to tax a property because of the property's location or use, or because of the owner's domicile or principal place of business.
  - (4) Used continually—Used several times on regular routes or for several tasks in close succession throughout the year.
- (b) A property owner may apply for the allocation of total market value of a vessel, special-purpose vessel, or other watercraft.
- (1) The allocation of taxable value of vessels and other watercraft used outside this state shall be determined according to the provisions of Tax Code, §21.021 and §21.031.
  - (2) To receive an allocation of value for vessels and other watercraft, a property owner must apply for the allocation on the comptroller-prescribed, model form Application for Interstate Allocation of Vessels or Other Watercraft or a form containing information which is in substantial compliance with the model form if approved by the comptroller. A person filing an allocation application form must include all information required by the form. The application must be filed with the chief appraiser for the district in which the property is taxable and must be filed prior to the approval of appraisal records by the appraisal board.
  - (3) If the chief appraiser determines that he needs information in addition to that furnished on the application, he may request additional information by written notice delivered to the property owner. A taxpayer shall furnish any additional information required within 15 days after the date the notice is mailed.
- (c) The guidelines for determination of jurisdiction to tax are as follows.
- (1) The chief appraiser shall determine whether property is within the taxing jurisdiction of another state or nation from the evidence supplied by the property owner. The burden of proof in establishing such jurisdiction is upon the property owner.
  - (2) The State of Texas has jurisdiction to tax property if:
    - (A) it is physically present within the State of Texas on January 1 for more than a temporary period;
    - (B) it has been used continually in Texas during the 12 months preceding January 1, regardless of its location on January 1; or
    - (C) its owner resides or does business in Texas and the property is outside Texas for a temporary period on January 1.
  - (3) Property is within the jurisdiction to tax of another state or nation if:
    - (A) it is physically present within that state or nation's boundaries on the state or nation's property tax lien date for more than a temporary period;
    - (B) it has been used continually in the state or nation during the 12 months preceding January 1, regardless of its location on January 1;
    - (C) its owner resides or does business in that state or nation and the property is outside that state or nation for temporary period on January 1; or
    - (D) the state or nation has in fact assessed a property tax against the property.
  - (4) Property is neither physically present nor used in a jurisdiction when it flies over the jurisdiction without landing.
  - (5) Property that leaves the boundaries of this state, and returns without being exposed to the taxing jurisdiction of another state or nation, remains within this state's taxing jurisdiction for the duration of the trip.



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- (6) Property is not within the jurisdiction to tax of this state or any other state of the United States if:
- (A) it is an instrumentality of commerce;
  - (B) it is owned by a foreign domiciliary;
  - (C) it is taxed in the nation where its owner is domiciled;
  - (D) it is used exclusively in foreign commerce; and
  - (E) it is not present in this state for more than a temporary period on January 1.
- (7) The chief appraiser may consider the following evidence in determining where a property has taxable situs:
- (A) published schedules, if the property carries passengers and/or cargo on regular routes at regular times;
  - (B) records kept in the normal course of business, such as mileage, flight, or vessel logs, that indicate where the property has traveled, how long it was located at each destination, and the purpose of its location at each destination;
  - (C) reports filed with state or national agencies that indicate where the property has traveled, how long it was located at destination, and the purpose of its location at each destination; and
  - (D) actual tax bills or notices of appraisal or assessment from other jurisdictions.
- (d) The chief appraiser shall allocate the market value of that property used in interstate or foreign commerce that qualifies for allocation under this subsection.
- (1) Property qualifies for allocation if it:
    - (A) constitutes a commercial instrument or commercial equipment;
    - (B) is used for a business purpose;
    - (C) has taxable situs in a taxing unit within the appraisal district as provided by Tax Code, §21.02 or §21.021; and
    - (D) is used continually outside Texas in interstate or foreign commerce, whether regularly or irregularly.
  - (2) A commercial instrument or item of business equipment is present in the state for more than a temporary period if:
    - (A) its owner maintains one or more places of business in this state and the property is present in this state on January 1 or at any time during the 12 months preceding January 1; and
    - (B) the property has contact with this state of a character that would permit this state to tax it under applicable federal law.
- (e) A property owner who is entitled to an allocation of property must file a rendition form that provides enough information necessary to prove the entitlement to allocation and permit the chief appraiser to apply an allocation formula appropriate to the subject property. An appraisal district shall use the comptroller-prescribed, model form Rendition of Property Qualified for Allocation of Value or a form containing information which is in substantial compliance with the model form if approved by the comptroller. Each form shall require the property owner to identify the property that is the subject of the rendition and provide information measuring the use of the property within Texas and within other states or nations. The form must permit the property owner to state an opinion of the total market value of the property and the amount of value that should be allocated to each taxing unit in which the property has situs.
- (f) If the chief appraiser determines that the property was within the taxing jurisdiction of this state and within the taxing jurisdiction of another state or nation for the same calendar year, he shall allocate to each taxing unit in which the property has situs the portion of the property's market value that fairly reflects its use in this state. If an allocation formula specified in this subsection does not fairly reflect the use of the property in this state and other situs jurisdictions, the chief appraiser may use another formula that more adequately reflects use. Such alternate formulas may include revenue-ton miles, equipment load factors, or other measures of property use.
- (1) For commercial aircraft property, as defined by Tax Code, §21.055, the chief appraiser shall use the following allocation formula: the fair market value of the aircraft multiplied by a fraction, the numerator of which is the product of 1.5 and the number of revenue departures by the aircraft from Texas during the preceding tax year and the denominator of which is the greater of:
    - (A) the number of hours in a year (8,760); or
    - (B) the numerator.

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- (2) For vessels, the chief appraiser will normally use an allocation formula based on port days. The ratio of the days the vessel spends in port in Texas to total days spent in port in all situs jurisdictions is the allocation ratio.
  - (3) For motor vehicles and rolling stock, not including vessels or aircraft, the chief appraiser will normally use an allocation formula based on mileage. The ratio of total miles traveled in Texas during the year to the total miles traveled in all situs jurisdictions during the year is the allocation ratio.
  - (4) For business aircraft property as defined by Tax Code, §21.055, the chief appraiser shall use the following allocation formula: the fair market value of the aircraft multiplied by a fraction, the numerator of which is the number departures by the aircraft from a location in Texas during the preceding tax year and the denominator of which is the number departures by the aircraft from all locations during the preceding tax year.
  - (5) For other equipment, the chief appraiser will normally use an allocation formula based on time. The ratio of time spent in Texas during the year to the total time spent in all situs jurisdictions during the year is the allocation ratio.
- (g) If the appraisal office allocates the value of property in a given year:
- (1) the chief appraiser shall note on the property's appraisal record for the year:
    - (A) that the allocation has been granted;
    - (B) the market value of the property;
    - (C) the allocation formula factor; and
    - (D) the appraised value of the property after allocation.
  - (2) the chief appraiser shall retain a record of the allocation for three years after it is granted, including:
    - (A) the rendition form requesting allocation;
    - (B) supporting documents filed by the property owner; and
    - (C) the formula chosen and calculations used in making the allocations.
- (h) The comptroller's forms applicable to this section may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

**Source Note:** The provisions of this §9.4033 adopted to be effective December 13, 1996, 21 TexReg 11816; amended to be effective February 3, 1998, 23 TexReg 800; amended to be effective March 14, 2004, 29 TexReg 2371; amended to be effective October 10, 2010, 35 TexReg 9107

## **9.4035. Special Types of Personal Property Inventory**

- (a) Except as provided in this section, a property owner subject to Tax Code, §§23.121, 23.122, 23.124, 23.1241, 23.1242, 23.125, 23.127, and 23.128 shall use the comptroller's model forms to file declarations and statements pursuant to Tax Code, §§23.121, 23.122, 23.124, 23.1241, 23.1242, 23.125, 23.127, and 23.128.
- (b) If not otherwise prohibited by law, with prior, written approval by the comptroller, a property owner may use customized forms to file declarations applicable to this section that set forth the information in the same language and sequence as the comptroller's model forms.
- (c) A chief appraiser shall make available to a property owner the comptroller's model forms to file declarations applicable to this section. If not otherwise prohibited by law, with prior, written approval by the comptroller, a chief appraiser may make available different forms to file declarations applicable to this section that set forth the information in the same language and sequence as the comptroller's model forms.
- (d) If not otherwise prohibited by law and with prior, written approval by the comptroller, in special circumstances, the chief appraiser may use declaration forms that provide additional information, delete information required by this section, or set out the required information in different language or sequence than that required by this section.
- (e) Notwithstanding subsections (b)–(d) of this section, as provided by Tax Code, §§23.122, 23.1242, 23.125, and 23.128, only the comptroller's model forms may be used to comply with Tax Code, §§23.122, 23.1242, 23.125, and 23.128.
- (f) Forms adopted by reference. The Comptroller of Public Accounts adopts by reference the Retail Manufactured Housing Inventory Declaration form (Form 50-267), the Retail Manufactured Housing Inventory Tax Statement form (Form 50-268), the Dealer's Heavy Equipment Inventory Declaration form (Form 50-265), and the Dealer's Heavy Equipment

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Inventory Tax Statement form (Form 50-266). Copies of these forms can be obtained from the Comptroller of Public Accounts, Property Tax Assistance Division, P.O. Box 13528, Austin, Texas 78711-3528.

- (g) Other Forms. The following comptroller-prescribed, model forms are not adopted by reference herein and may be revised at the discretion of the comptroller. The comptroller may also prescribe additional forms applicable to this section. Such forms are also not adopted by reference herein and may be revised at the discretion of the comptroller. Current forms can be obtained from the Comptroller of Public Accounts' Property Tax Assistance Division.

- (1) Dealer's Motor Vehicle Inventory Declaration (Form 50-244);
- (2) Dealer's Motor Vehicle Inventory Tax Statement (Form 50-246);
- (3) Dealer's Vessel and Outboard Motor Inventory Declaration (Form 50-259); and
- (4) Dealer's Vessel and Outboard Motor Inventory Tax Statement (Form 50-260).

**Source Note:** The provisions of this §9.4035 adopted to be effective December 1, 1997, 22 TexReg 11397; amended to be effective January 10, 2000, 25 TexReg 212; amended to be effective September 19, 2010, 35 TexReg 8381; amended to be effective May 8, 2012, 37 TexReg 3417

## **9.4037. Use of Electronic Communications for Transmittal of Property Tax Information**

- (a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Account ID—the predominant identification number used on the hardcopy.
- (2) CAD—County Appraisal District
- (3) NOT—Notice
- (4) PRP—Property
- (5) OWN—Owner
- (6) ENT—Entity
- (7) minOccurs—Minimum occurrences
- (8) maxOccurs—Maximum occurrences

- (b) Transmittal of information. Information in notices of appraised value required by Tax Code, §1.085(g) to be delivered electronically must be transmitted according to the file layout provided by this section. The transmittal must be made by electronic mail, file transfer protocol (ftp) or any other method agreed upon by the property owner and the chief appraiser; however, if the size of the information file or other factors require the use of a 1/4 inch cartridge (1.2 Gb max), 1/2 inch cartridge 18 tract (3480), 8-mm cartridge (5 Gb max), 4-mm cartridge (5 Gb max), CD-ROM, DVD-ROM, or 2 1/2 inch disc, the property owner and the chief appraiser must agree to the use of one of these media, and delivery may be made by hand or by mail, according to the agreement of the property owner and the chief appraiser.

- (c) Format and Content. The information included in statutorily required electronic transmissions between property owners and appraisal districts, taxing units, or other tax officials, must have the following specifications:

- (1) Extensible Mark-up Language (XML)
- (2) File layout. Items listed must be included in statutorily required electronic transmissions between property owners and appraisal districts, taxing units, or other tax officials. Optional items, or other items agreed upon by the property owner and the appraisal district may be included in the electronic notice.

[Attached Graphic](#)

- (d) Notice of Appraised Value—Tax Code §25.19.

- (1) Electronic XML Document Schema

[Attached Graphic](#)

- (2) Notice letter. The notice required by Tax Code, §25.19(h), may be transmitted electronically with the file layout provided by this section.

**Source Note:** The provisions of this §9.4037 adopted to be effective December 19, 2004, 29 TexReg 11468; amended to be effective June 12, 2006, 31 TexReg 4732

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## 9.4201. Definition of Petroleum Products

For the purposes of administration and operation of appraisal districts, the term “liquid or gaseous materials that are the immediate derivatives of the refining of oil or natural gas,” as used in the Tax Code, §11.251, means the following products:

- (1) propane;
- (2) butane;
- (3) butane-propane;
- (4) motor gasoline;
- (5) kerosene;
- (6) home heating oil;
- (7) diesel fuel;
- (8) other middle distillates;
- (9) aviation gasoline;
- (10) kerosene type jet fuel;
- (11) naphtha-type jet fuel;
- (12) fuel oil #4 for utility use;
- (13) fuel oils #5, #6 for utility use;
- (14) fuel oil #4 for nonutility use;
- (15) fuel oils #5, #6, for nonutility use;
- (16) bunker C;
- (17) navy special;
- (18) lubricants;
- (19) special naphtha;
- (20) solvent products; and
- (21) crude oil.

**Source Note:** The provisions of this §9.4201 adopted to be effective June 22, 1990, 15 TexReg 3351; transferred effective November 26, 1991, as published in the Texas Register September 18, 1992, 17 TexReg 6481

## SUBCHAPTER L. PROCEDURES FOR PROTESTING COMPTROLLER PROPERTY VALUE STUDY AND AUDIT FINDINGS

### 9.4301. Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Agent--A petitioner may designate an agent to act on behalf of the petitioner in protesting comptroller’s findings pursuant to this subchapter. Except as provided in paragraph (7) of this section, a petitioner may designate only one agent per protest. The agent is the individual that the petitioner, if acting through an agent, is required to designate in the petition to perform the following activities on behalf of the petitioner:
  - (A) receive and act on all notices, orders, decisions, exceptions, replies to exceptions, and any other communications regarding the petitioner’s protest;
  - (B) resolve any matter raised in petitioner’s protest;
  - (C) argue and present evidence at any hearing on petitioner’s protest and authorize individuals other than the agent to argue and present evidence at a hearing on petitioner’s protest; and
  - (D) any other action required of petitioner.

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- (2) ALJ--An Administrative Law Judge employed by the State Office of Administrative Hearings.
  - (3) Clerical error--A numerical error that is or results from a mistake or failure in writing, copying, transcribing, entering or retrieving computer data, computing, or calculating. In this subchapter, “clerical error” does not include an error that is or results from a mistake in judgment or reasoning. In this subchapter, “clerical error” does not include any claim regarding the conduct of the study generally, such as a claim of a study design defect; only district-specific numerical errors are included in the definition of “clerical error.”
  - (4) Division--The comptroller’s Property Tax Assistance Division.
  - (5) Division director--Director of the comptroller’s Property Tax Assistance Division. Except as otherwise provided in this subchapter, all petitions and other documents related to a protest shall be filed or served, as applicable, by delivery to the division director.
  - (6) Eligible property owner--A property owner in a school district or school district split whose property is included in the study conducted by the comptroller under Government Code, §403.302 and whose tax liability on such property is \$100,000 or more. A property owner is an “eligible property owner” only in a school district or school district split in which all of the requirements of this subsection are met. Property is “included in the study” only if, in conducting the study, the comptroller appraised or otherwise assigned a value other than local value to the property and the value of the property is reflected on the study’s confidence interval detail for the school district or school district split in which the property was located. Additionally, in the case of a protest of the comptroller’s findings under Government Code, §403.302(h), the property must not have been deleted from the study before final findings were certified to the commissioner of education. In the case of a protest of the comptroller’s findings under Government Code, §403.302(g), the property owner’s property must be included in the study for the year in which the preliminary findings were made that are the subject of the protest. In the case of a protest of the comptroller’s findings under Government Code, §403.302(h), the property owner’s property must have been included in the study for the year that is the subject of the audit under protest. Property is not “included in the study” in the case of a protest under Government Code, §403.302(g) or (h) by virtue of any calculations made pursuant to Government Code, §403.302(c-1), (d), (d-1), (e), (i) - (k) and a property owner does not have standing to protest such calculations.
  - (7) Petition--The documents and supporting evidence filed by petitioner in accordance with this subchapter to protest the comptroller’s findings under Government Code, §403.302(g) or (h). A petitioner is limited to one petition per audit or property value study, except that a petitioner protesting property value study findings may file a separate petition solely to address self report corrections pursuant to §9.4305(g) of this title (relating to Who May Protest). If a petitioner files one petition to protest property value study findings and a separate petition pursuant to §9.4305(g) of this title, the petitioner may designate different agents for each protest. If a petitioner files one petition to protest both property value study findings and to address self report corrections pursuant to §9.4305(g) of this title, the petitioner may designate only one agent.
  - (8) Petitioner--A school district or eligible property owner who submits a petition to protest the comptroller’s findings under Government Code, §403.302(g) or (h). In addition, an appraisal district may be a petitioner if it is authorized in writing by a school district to file a petition to protest and the school district is not filing a petition to protest. Unless the context clearly indicates otherwise, in this subchapter, the term “petitioner” includes petitioner’s agent. When, in this subchapter, information is to be provided to or served on a petitioner, such information, except as otherwise provided in this subchapter, shall be provided to or served on the agent designated by petitioner or, if no agent has been designated, to petitioner’s designated employee contact.
  - (9) SOAH--The State Office of Administrative Hearings. A matter may be referred to SOAH only by the comptroller.
  - (10) Comptroller--The Comptroller of Public Accounts and employees and designees of the Comptroller of Public Accounts.
  - (11) School district split--Each portion of a school district located in different counties where properties are appraised by different appraisal districts. The property value study is conducted by school district split in school districts that are located in two or more counties; therefore, protests under this subchapter that are filed regarding a school district that is located in two or more counties may only be filed in the split(s) in which the protesting party has standing and the protest is otherwise permitted as provided in this subchapter. As used in this subchapter, unless the context clearly indicates otherwise, “school district” means an applicable school district split for a school district that is located in two or more counties.

**Source Note:** The provisions of this §9.4301 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150; amended to be effective January 8, 2014, 39 TexReg 89

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## 9.4302. General Provisions

- (a) Scope of rules. The rules in this subchapter shall govern the procedure for protesting the comptroller's findings under Government Code, §403.302(g) or (h). The Texas Administrative Procedures Act, the Texas Rules of Procedure, the Texas Rules of Evidence, and the State Office of Administrative Hearings (SOAH) procedural rules do not apply to protests of the comptroller's findings under Government Code, §403.302(g) or (h). Nothing in this subsection shall preclude general application by a SOAH Administrative Law Judge (ALJ) of evidentiary principles addressed in the Texas Rules of Evidence, such as relevance and witness credibility, as an advisory tool in making evidentiary determinations in protests of the comptroller's findings under Government Code, §403.302(g) and (h).
- (b) Construction. Unless otherwise provided, this subchapter shall be construed as provided by the Code Construction Act, Government Code, Chapter 311.
- (c) Computation of time. In computing a period of time prescribed or allowed by the rules in this subchapter, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or Texas state or federal holiday on which the comptroller's office is closed, the period is extended to include the next day that is not a Saturday, Sunday, or Texas state or federal holiday on which the comptroller's office is closed.
- (d) Filing and serving documents. Unless otherwise provided, every document relating to a protest including, but not limited to, a petition shall be delivered to the division director by one of the following methods: hand delivery; United States Postal Service first-class mail in a properly addressed and sufficiently stamped envelope or box; overnight delivery service in a properly addressed and prepaid envelope or box; or email. The address for hand delivery is Director, Property Tax Assistance Division, 1711 San Jacinto, 3rd Floor, Austin, Texas 78701. The address for delivery by United States Postal Service mail and overnight delivery service parcels is: Director, Property Tax Assistance Division, 1711 San Jacinto, 3rd Floor, Austin, Texas 78701. The address for delivery by email is: PTADAppeals@cpa.texas.gov\*. Delivery by email will only be accepted if all documents being delivered by email are forwarded in Microsoft Word® or portable document format (pdf) compatible with the latest version of Adobe Acrobat® in a file size that can be accommodated by the division's computer system at the time of delivery. Documents delivered by hand delivery, first-class mail, or overnight delivery service must be paper documents unless another format is approved in writing in advance by the division director. The petitioner is responsible for verifying receipt by the division of all documents delivered regardless of the method of delivery. All documents delivered to the division director, regardless of method of service, must be legible. Except as otherwise expressly provided in this subchapter, the division may deliver written correspondence and other documents to a petitioner by hand delivery, United States Postal Service first-class mail, overnight delivery service, or email. All information contained in documents submitted to the division that is confidential by law must be marked as confidential. Multi-page documents that are confidential in their entirety must be marked as confidential on each page. By filing a protest, the petitioner certifies that all confidential information submitted to the division has been clearly identified as confidential.
- (e) Except as otherwise provided in this subchapter, the division director has independent discretion to impose deadlines and schedule hearing dates as reasonable or necessary to timely and efficiently manage the protest process.

**Source Note:** The provisions of this §9.4302 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

**\*Note:** For clarity purposes, the email address in the original text of this rule has been replaced with the current email address from the Comptroller's office which changed effective Jan. 1, 2015. The email address in the original text of the rule is PTADAppeals@cpa.state.tx.us, which no longer exists.

## 9.4303. Changes in Preliminary Certification of Study Findings

- (a) At any time before the date on which final changes in the preliminary findings under Government Code, §403.302(g) are certified to the commissioner of education, the comptroller may certify to the commissioner of education amended preliminary findings.
- (b) An amended preliminary finding is a change made by the comptroller to a school district's preliminary findings that is certified to the commissioner of education after the date on which preliminary findings for the school district were originally certified and before the date on which final certification of changes in preliminary findings are certified.
- (c) If the comptroller certifies amended preliminary findings for a school district for which the comptroller's determination initially certified to the commissioner of education reflected valid local value pursuant to Government Code, §403.302(c) and the amended preliminary findings result in a determination that the school district's local value is invalid pursuant to Government Code, §403.302(c), the affected school district and eligible property owners to whose property the amended preliminary findings pertain have a right to protest the findings in the manner required by this subchapter. A petition protesting the comptroller's amended preliminary findings pursuant to this section must be filed within 40 calendar days after the date the comptroller certifies the amended preliminary findings to the commissioner of education. In addition to the restrictions stated in this subsection, all provisions in this subchapter relating to standing apply to protests of amended preliminary findings.



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- (d) If the comptroller certifies amended preliminary findings for a school district that result in a change from a determination of local value of 90% or greater of the lower limit of the margin of error to a determination of local value of less than 90% of the lower limit of the margin of error, the affected school district and eligible property owners to whose property the amended preliminary findings pertain have a right to protest the findings in the manner required by this subchapter. A petition protesting the comptroller's amended preliminary findings pursuant to this section must be filed within 40 calendar days after the date the comptroller certifies the amended preliminary findings to the commissioner of education. In addition to the restrictions stated in this subsection, all provisions in this subchapter relating to standing apply to protests of amended preliminary findings.
  - (e) If the comptroller certifies amended preliminary findings for a school district that increase the appraised or assigned value of property included in the study and owned by an eligible property owner as defined in §9.4301(6) of this title (relating to Definitions), the affected school district and eligible property owner to whose property the amended preliminary findings pertain have a right to protest the findings in the manner required by this subchapter. A petition protesting the comptroller's amended preliminary findings pursuant to this section must be filed within 40 calendar days after the date the comptroller certifies the amended preliminary findings to the commissioner of education. In addition to the restrictions stated in this subsection, all provisions in this subchapter relating to standing apply to protests of amended preliminary findings.

**Source Note:** The provisions of this §9.4303 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4304. Extensions of Time**

- (a) Before a referral to the State Office of Administrative Hearings (SOAH), the division director, at the director's independent initiative and discretion, may grant a petitioner an extension of time for the limited purpose of correcting technical errors or omissions in a timely filed protest petition. Petitioner's failure to submit grounds for objection or supporting evidence as required by this subchapter is not a technical error or omission.
- (b) At any time before a referral to SOAH, a petitioner may request an extension of time for any deadline, except the deadline to file a protest, by submitting a request for extension to the division director. For purposes of this section, the scheduled date for an informal conference is considered a deadline.
- (c) An extension of time under subsection (a) or (b) of this section shall be requested in writing and be submitted to and received by the division director at least five business days in advance of the original deadline for which the extension is requested. If requested in writing by the petitioner and for good cause shown, the division director may waive the requirement that the request for the extension be made five calendar days in advance of the deadline.
- (d) An extension under subsection (a) or (b) of this section may not extend the deadline for more than ten calendar days.
- (e) An extension under subsection (a) or (b) of this section may be granted by the division director only for good cause shown, and if the reason for the extension is not the petitioner's neglect, indifference, or lack of diligence. Good cause does not include a claim that the time periods established in this subchapter are too short to meet the deadline.
- (f) No extension may be granted to extend the deadline to file a protest.

**Source Note:** The provisions of this §9.4304 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4305. Who May Protest**

- (a) A school district may protest the comptroller's preliminary findings under Government Code, §403.302(g).
- (b) A school district may protest the comptroller's findings under Government Code, §403.302(h) that constitute either revisions to the study findings under Government Code, §403.302(g) or denial of revisions to the study findings under Government Code, §403.302(g) that were specifically requested in the request for audit.
- (c) An eligible property owner in a school district may protest the comptroller's preliminary findings under Government Code, §403.302(g) regarding the taxable value of the owner's property.
- (d) An eligible property owner in a school district may protest the comptroller's findings under Government Code, §403.302(h) regarding the taxable value of the owner's property if the study findings regarding the owner's property under Government Code, §403.302(g) were revised as a result of the audit.
- (e) An appraisal district may not protest unless authorized to do so in writing by a school district for which the appraisal district appraises property and the school district is not filing a protest; however, a chief appraiser or other employee of an appraisal district may be designated as an agent by a school district in a school district's protest. An appraisal district that is authorized by a school district to file a protest is limited to protesting the comptroller's findings in the school

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district that authorized the protest. An appraisal district may not protest the comptroller's appraisal district findings under Tax Code, §5.10.

- (f) A protest filed by a property owner will not be considered for any purposes to be a protest filed by a school district.
- (g) Self-report corrections. A school district, or an appraisal district acting under authority of a school district as provided under subsection (e) of this section, may seek correction of an error in the comptroller's preliminary findings under Government Code, §403.302(g) that was caused by an error in a district's annual report of property value or by a change in a district's certified tax roll by timely filing a petition and otherwise complying with the requirements of this subchapter.
- (h) No protest of the comptroller's preliminary findings under Government Code, §403.302(g) other than self-report corrections may be filed by any party in a school district in a year in which no study is conducted pursuant to Government Code, §403.302.

**Source Note:** The provisions of this §9.4305 adopted to be effective January 26, 2011, 36 TexReg 268

## **9.4306. Filing a Protest**

- (a) A protest shall be asserted by timely filing a petition with the division. A petition protesting the comptroller's preliminary findings under Government Code, §403.302(g) must be filed within 40 calendar days after the date the comptroller certifies preliminary findings of taxable value to the commissioner of education pursuant to Government Code, §403.302(g). A petition seeking a self-report correction pursuant to §9.4305(g) of this title (relating to Who May Protest) must be filed within 40 calendar days after the date the comptroller certifies preliminary findings of taxable value to the commissioner of education pursuant to Government Code, §403.302(g). A petition protesting the comptroller's findings under Government Code, §403.302(h) must be filed within 40 calendar days after the date the comptroller certifies findings of the audit to the commissioner of education pursuant to Government Code, §403.302(h).
- (b) A petition must be signed by:
  - (1) the superintendent of the school district and the school district's designated agent, if it is a petition filed by a school district;
  - (2) the superintendent of the school district, the chief appraiser of the appraisal district, and the appraisal district's designated agent, if any, if it is a petition filed by an appraisal district authorized by a school district; or
  - (3) the property owner and the property owner's agent, if it is a petition filed by a property owner.
- (c) All petitions shall be filed with the division director in the form and manner prescribed by the comptroller. A petition may be delivered to the division director by hand delivery, mail, overnight delivery service, or email in accordance with the provisions of §9.4302(d) of this title (relating to General Provisions), but a petition is not filed until it is actually received by the division director. For purposes of this subsection, receipt by the division constitutes receipt by the division director. The petitioner is responsible for verifying receipt by the division of all documents delivered regardless of the method of delivery. A petitioner shall have the burden to prove that a petition was timely filed.
- (d) A petition delivered to the division director by hand delivery or email is timely filed only if it is received on or before the last day for filing as set forth in subsection (a) of this section and meets the requirements set forth in §9.4302(d) of this title.
- (e) A petition delivered to the division director by mail is timely filed only if it is received on or before the last day for filing as set forth in subsection (a) of this section or if it is received within ten calendar days of the day it is sent and it is sent by United States Postal Service first-class mail in a properly addressed and sufficiently stamped envelope or box and the envelope or box exhibits a legible postmark affixed by the United States Postal Service or by compliant use of a postage meter licensed by the United States Postal Service showing that the petition was mailed on or before the last day for filing as set forth in subsection (a) of this section.
- (f) A petition delivered to the division director by overnight delivery service is timely filed only if it is received on or before the last day for filing as set forth in subsection (a) of this section or if it is received within ten calendar days of the day it is sent and it is sent by overnight delivery service in a properly addressed and prepaid envelope or box and the envelope or box exhibits a legible date showing that the petition was delivered to the overnight delivery service for delivery on or before the last day for filing.
- (g) A school district shall deliver a copy of its petition, except supporting documentary evidence, to each appraisal district that appraises property for the district. An appraisal district authorized by a school district to file a protest shall deliver

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a copy of its petition, except supporting documentary evidence, to the school district that authorized the protest. A property owner shall deliver a copy of its petition, including supporting documentary evidence, to each school district and appraisal district in which the property under protest is located. Every petition shall contain a certification that a copy of the petition was delivered as required by this subsection.

- (h) The petition, including supporting documentary evidence, if filed by hand delivery, mail, or overnight delivery service, must be filed in triplicate with the division director and the original and both copies must be in the form required under this subchapter. If filed by email, only the original must be filed; no additional copies are required.

**Source Note:** The provisions of this §9.4306 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

### **9.4307. Dismissal**

- (a) A petition is subject to dismissal if there is any jurisdictional defect. Jurisdictional defects include, but are not limited to, lack of standing and untimely filing. If a petition is filed and there is a jurisdictional defect, the division may file a motion to dismiss with the State Office of Administrative Hearings (SOAH) and a request to docket. Following receipt of the referral, SOAH shall assign the case a docket number and assign an Administrative Law Judge (ALJ). At the time of filing the motion to dismiss, the division will deliver a copy to petitioner by United States Postal Service First Class Mail and, if an email address has been provided in the petition, by email. The petitioner may, no later than seven calendar days from the date the motion to dismiss is filed, file a response with SOAH. At the time of filing a response, the petitioner shall deliver a copy of the response to the division director and counsel for the division by United States Postal Service First Class Mail and email. The division will have seven calendar days from the date of filing of the response to file a reply with SOAH. At the time of filing a reply, a copy shall be delivered to petitioner by United States Postal Service First Class Mail and, if an email address has been provided in the petition, by email. After time for the division to file a reply has expired, SOAH shall consider the motion, any timely-filed response, and any timely-filed reply, and issue a proposal for decision within seven business days to the deputy comptroller stating the ALJ's recommendation as to the decision on the motion. Neither the division nor the petitioner shall be permitted to submit any additional information or evidence for consideration by the ALJ. No oral hearing will be held.
- (b) The ALJ's proposal for decision shall include the ALJ's recommendation for final decision and the rationale supporting such recommendation.
- (c) The ALJ shall serve the proposal for decision on the deputy comptroller, the petitioner, and the division director by facsimile, electronic mail, hand delivery, or overnight mail delivery service. An ALJ will forward a copy of the record to the deputy comptroller with any proposal for decision.
- (d) A party to the protest that is adversely affected by the proposal for decision may, within seven calendar days after the date the proposed decision is sent by facsimile, electronic mail, hand delivery or is delivered to an overnight delivery service, file with the deputy comptroller exceptions to the proposal for decision. Exceptions filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery, or email. If exceptions are filed, all other parties may, within seven calendar days after the date the exceptions are filed, file replies to the exceptions. Replies filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery or email.
- (e) The deputy comptroller shall issue a final order and, in doing so, may adopt, amend, or reject the ALJ's proposal for decision.
- (f) A decision is final on the date signed by the deputy comptroller.
- (g) The deputy comptroller shall deliver written notice of the final decision to each party to the protest.
- (h) Petitioner bears the burden of proof on all jurisdictional matters.
- (i) If a motion to dismiss is denied, the petition will be processed in accordance with this subchapter.

**Source Note:** The provisions of this §9.4307 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4308. Contents of Petition**

- (a) A petition shall show the petitioner's name and address; designate the petitioner's agent; designate the mailing address, delivery address for overnight delivery, e-mail address, and facsimile number for purposes of service and notice under this subchapter; and, state the grounds for objection to the preliminary findings. Petitioner shall provide supporting

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documentary evidence in the manner required by this section in support of each ground for objection. The petition shall also include the following:

- (1) the petitioner's grounds for objection, stated with the specificity and in the manner required by this subchapter; and
  - (2) documentary evidence, organized as required by this subchapter, to support each contention asserted in the petition.
- (b) To protest the comptroller's findings, a petitioner must identify errors in value determinations made by the division in the conduct of the study and list them numerically and sequentially (1, 2, 3, 4, etc.) as grounds for objection in the petition. Except in the case of self report corrections, to provide the comptroller with sufficient notice of grounds for objection, the petitioner shall identify and numerically list each property by each property category; the petitioner shall list each property within each category by identification number or, in the case of property in Category J, each company identification number or, in the case of property in Category D1, each land class and item of income or expense; and, the petitioner shall, for each property, company, or land class and item of income or expense, as applicable:
- (1) identify each value determination alleged to be inaccurate;
  - (2) state, for each change sought by the protest, the inaccuracy of the value determination alleged by petitioner to be inaccurate;
  - (3) state, for each change sought by the protest, the value determination alleged by petitioner to be accurate including, if applicable as set forth in subsection (e) of this section, the value of the change sought;
  - (4) state, for each change sought by the protest, the basis of the allegation that the comptroller's finding is inaccurate; and
  - (5) identify by title or description and provide, for each change sought of the protest, some documentary evidence that supports each of petitioner's allegations of inaccuracy. Documentary evidence that merely relates to the finding at issue is insufficient. The documentary evidence must actually support, although need not conclusively establish, the petitioner's contention that the comptroller's finding is inaccurate. It is sufficient to identify and include documents created, collected, and used by the division in conducting the study or performing the audit, as applicable, in support of a ground of objection so long as the documents support petitioner's allegations of inaccuracy with specificity. In any case, it is not sufficient to merely identify or reference documents; all documentary evidence must be identified and copies must be submitted.
- (c) For purposes of this section, a "value determination" is a determination made by the division in the course of arriving at a value for a property, company, or a land class and item of income or expense. A determination may be the inclusion of a sale in the study, the sale's price of a property included in the study, or an element of an appraisal. Examples of elements of an appraisal include construction quality, effective age, percent of depreciation, capitalization rate, market rent, expenses, land value, land value per acre, type of lease, fencing expense, and other components.
- (d) The petition is required to identify separately each finding alleged to be inaccurate and each change sought by the protest. Multiple claims regarding the same property, company, or land class and item of income or expense cannot be combined in the same ground for objection. If, for example, it is alleged that the effective age and the land value for a specific property are inaccurate, each issue must be identified as a separate ground for objection. Matters such as calculation of local modifiers and land schedules do not constitute comptroller findings, but may be used in arriving at comptroller findings for an individual property. Such matters may be raised in a protest only in support of individual claims of inaccurate findings as to individual properties. An objection that does not constitute a protest of a comptroller finding is prohibited. For example, to object to a land value of any or all properties included in the study or a land schedule used in the study, each property for which a value change is sought must be separately identified. A protest of an appraiser's land schedule generally and without identifying each property for which a value change is sought does not constitute a protest of a comptroller finding and shall not be permitted.
- (e) Each ground for objection included in the petition must state the relief sought with sufficient specificity such that the comptroller or an ALJ can, based solely on a review of the petition, grant the relief requested by making the change requested. Thus, for grounds for objection for which a specific value adjustment is sought, the specific value sought must be stated. For example, the value of personal property for which a sale adjustment is sought must be stated and the price per acre sought for a protested item of productivity value income or expense must be stated. A petitioner is not required to include a specific value for changes that are not value specific. For example, an adjustment to effective age does not require a statement of value because the relief can be granted without reference to the value change resulting from a change in effective age. Thus, the petitioner seeking an adjustment to effective age may state the effective age alleged to be accurate without stating a revised value for the property at issue. If a value-specific adjustment is requested

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but no specific value is identified, the division may make a value adjustment in response and the value adjustment made will constitute agreement as to the ground for objection.

- (f) All documentary evidence submitted by petitioner with the petition shall be filed in the following manner: organized and separated by cover sheets to correspond to each ground for objection, with each cover sheet clearly identifying the ground for objection number, category, and property identification number, company identification number, or land class and item of income or expense, as applicable. If one or more documents are included as evidence for more than one ground for objection, the documents may be marked and identified as an exhibit and provided only once, rather than copied for each applicable ground for objection. Each set of documents must be marked as a separate exhibit (for example, “Exhibit A,” “Exhibit B,” etc.). However, if documents are required pursuant this subchapter to be submitted in triplicate, all documents are required to be submitted in triplicate, including exhibits.
- (g) The following are examples of sufficient identification of grounds for objection in protesting the comptroller’s preliminary findings under Government Code, §403.302(g). The examples are general and provided only by way of example. All requirements for submission set forth in this subchapter must be followed.

[Attached Graphic](#)

- (h) Self report corrections. Self report corrections are limited to changes in the comptroller’s preliminary findings under Government Code, §403.302(g) that were caused by an error in a district’s annual report of property value, by a change in a district’s certified tax roll, or by clerical errors in a district’s local value made by the division. All self report corrections must be asserted in sequentially numbered grounds for objection. Grounds for objection must set forth by written requests and be supported by documentation as identified in this subsection.
  - (1) To seek a self report correction regarding changes of values reflected in the School District Report of Property Value (Form 50-108), a petitioner must identify “SR” as the category identification, include a written request that the preliminary findings be revised in accordance with an updated School District Report of Property Value, and identify and include with the protest the following documentation: School District Report of Property Value (Form 50-108) or documentation that provides substantially the same information set forth in School District Report of Property Value (Form 50-108) with a recap that includes a breakdown of value by category, a breakdown of exemptions and other value deductions, and a breakdown by land class of agricultural and timber land acreage and value. All values reflected on the documentation that differ from the division’s preliminary findings will be considered to be changes sought by way of the protest.
  - (2) To seek a self report correction regarding value lost due to school tax limitations, a petitioner must identify “SR” as the category identification, include a written request that the preliminary findings be revised in accordance with an updated Report on Value Lost Because of the School Tax Limitation on Homesteads of the Elderly/Disabled, and identify and include with the protest the documentation listed in subparagraphs (A) and (B) of this paragraph. All values reflected on the documentation that differ from the division’s preliminary findings will be considered to be changes sought by way of the protest.
    - (A) Report on Value Lost Because of the School Tax Limitation on Homesteads of the Elderly/Disabled (Form 50-253) or documentation that provides substantially the same information set forth in Report on Value Lost Because of the School Tax Limitation on Homesteads of the Elderly/Disabled (Form 50-253) and with a recap, if available, showing the total appraised value of residential homesteads subject to a tax ceiling, the total dollar amount of mandatory exemptions on residence homesteads subject to a tax ceiling, the total dollar amount of local optional exemptions on residence homesteads subject to a tax ceiling, the total taxable value of residence homesteads subject to a tax ceiling, and the total actual levy on residence homesteads subject to a tax ceiling; and
    - (B) a listing by account number in Excel®-compatible format of tax ceilings created in 2006 or a prior year and that still existed in the property value study (PVS) year, if a change or correction to such information is requested, including the year ceiling was established, the ceiling in 2007, and the ceiling in the PVS year, if the total loss of all such combined accounts is different than that reported in the division’s preliminary findings. If the total loss of all such combined accounts is not different than that reported in the division’s preliminary findings, the listing identified in this subsection need not be submitted. This information is only required if a change or correction to such information is requested.
  - (3) To seek a self report correction concerning value limitations provided by Tax Code, Chapter 313, a petitioner must identify “SR” as the category identification, include a written request that the preliminary findings be revised



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in accordance with an updated Report on Value Lost Because of Value Limitations Under Tax Code, Chapter 313, and identify and include with the protest the following documentation: Report on Value Lost Because of Value Limitations Under Tax Code, Chapter 313 (Form 50-767) with a listing by account number of the market value, exemptions, and taxable value of the property subject to the value limitation. All values reflected on the documentation that differ from the division's preliminary findings will be considered to be changes sought by way of the protest.

- (4) To seek a self report correction concerning value lost due to participation in tax increment financing, a petitioner must identify "SR" as the category identification, include a written request that the preliminary findings be revised in accordance with an updated Report on Value Lost Because of School District Participation in Tax Increment Financing, and include with the protest the following documentation: Report on Value Lost Because of School District Participation in Tax Increment Financing (Form 50-755) with a listing of each property in the TIF zone identified by account number and showing the appraised and taxable value for the PVS year and appraised and taxable value for the zone's base year. All values reflected on the documentation that differ from the division's preliminary findings will be considered to be changes sought by way of the protest.
- (5) To seek a self report correction concerning a change or correction in deferred taxes pursuant to Tax Code, §33.06 or §33.065, if not otherwise included in a self report correction under paragraph (1) of this subsection, a petitioner must identify "SR" as the category identification, include a written request that the preliminary findings be revised in accordance with an updated listing of deferred taxes, and include with the protest a listing by account of the unpaid deferred taxes that does not include penalties or interest. All values reflected on the documentation that differ from the division's preliminary findings will be considered to be changes sought by way of the protest.
- (6) Notwithstanding paragraphs (1), (2), (3), (4), and (5) of this subsection, a petitioner may seek a self report correction by identifying "SR" as the category identification, including a written request identifying findings sought to be revised, and identifying and including with the protest information necessary to support the requested corrections.
- (7) The following are examples of sufficient identification of self report correction grounds for objection in protesting the comptroller's preliminary findings under Government Code, §403.302(g). The examples are general and provided only by way of example. All requirements for submission set forth in this subchapter must be followed.

#### [Attached Graphic](#)

- (i) The petition must contain a statement by the school district's, property owner's, or authorized appraisal district's agent or, if no agent has been designated, by the school district superintendent, the property owner, or the chief appraiser for the authorized appraisal district, as applicable, that, to the best of the person's knowledge, the statements contained in the petition and the evidence attached to the petition are true and correct.

**Source Note:** The provisions of this §9.4308 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

### **9.4309. Insufficient Grounds for Objection**

- (a) Any petition or ground for objection that does not comply with §9.4308 of this title (relating to Contents of Petition) does not adequately specify the grounds for objection as required by Government Code, §403.303(a) and may be rejected by the division director without further review by the division.
- (b) If the division director determines that a petition or ground for objection asserted in a petition does not comply with §9.4308 of this title, the division will notify the petitioner that the petition or ground for objection has been rejected pursuant to this section. No additional information or evidence may be submitted by a petitioner after a determination of rejection has been made by the division director. Grounds for objection, if any, that have not been rejected will be processed as otherwise set forth in this subchapter. The division's agreement as to requested relief sought by way of a ground for objection is deemed final resolution of that ground for objection. Consequently, if all grounds for objection in a petition other than those that have been rejected have been deemed finally resolved by agreement, the petitioner may request referral of rejected issues in accordance with the provisions of subsection (c) of this section applicable to a petition rejected in its entirety.
- (c) If a petition is rejected in its entirety as set forth in this section, the petitioner may request referral of the rejection to State Office of Administrative Hearings (SOAH) within seven calendar days of the date that the division sends petitioner notice of the rejection. Upon timely written request to the division, a copy of the petition will be referred to SOAH with



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notice that the petition has been rejected pursuant to this subchapter and a request to docket. Following receipt of the referral, SOAH shall assign the case a docket number and assign an Administrative Law Judge (ALJ). The petitioner shall not be permitted to submit any additional information or evidence for consideration by the ALJ. No oral hearing will be held. The ALJ shall consider the petition and make a determination as to each ground for objection included in the petition as to whether or not such ground for objection complies with §9.4308 of this title. If the ALJ determines that a ground for objection does not comply with §9.4308 of this title, the ALJ shall, within ten business days after referral, issue a proposal for decision to the deputy comptroller that the ground for objection be rejected. If the ALJ determines that a ground for objection does comply with §9.4308 of this title, the ALJ shall, within ten business days after referral, issue a proposal for decision to the deputy comptroller stating the ALJ's recommendation as to the decision on such ground for objection. The decision must specify the specific change to the study findings the ALJ recommends and the change must be based solely on the ground for objection set forth in the petition. A ground for objection that does not comply with §9.4308 of this title will not provide the ALJ with sufficient information to identify a specific change to the study findings. An ALJ will forward a copy of the record to the deputy comptroller with any proposal for decision. After receiving the ALJ's proposal for decision and the record, the deputy comptroller shall issue a final decision.

- (d) An ALJ's proposal for decision issued pursuant to subsection (c) of this section shall include the ALJ's recommendations for final decision and the rationale supporting such recommendations.
- (e) The ALJ shall serve a proposal for decision issued pursuant to subsection (c) of this section on the deputy comptroller, the petitioner, and the division director by facsimile, electronic mail, hand delivery, or overnight mail delivery service. An ALJ will forward a copy of the record to the deputy comptroller with any proposal for decision.
- (f) A party to the protest that is adversely affected by a proposal for decision issued pursuant to subsection (c) of this section may, within seven calendar days after the date the proposed decision is sent by facsimile, electronic mail, hand delivery or is delivered to an overnight delivery service, file with the deputy comptroller exceptions to the proposal for decision. Exceptions filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery, or email. If exceptions are filed, all other parties may, within seven calendar days after the date the exceptions are filed, file replies to the exceptions. Replies filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery or email.
- (g) The deputy comptroller shall issue a final order on a proposal for decision issued pursuant to subsection (c) of this section and, in doing so, may adopt, amend, or reject the ALJ's proposal for decision. A decision is final on the date signed by the deputy comptroller. The deputy comptroller shall deliver written notice of the final decision to each party to the protest.
- (h) If one or more, but not all, of the grounds for objection included in a petition are rejected as set forth in this section, the grounds for objection that have not been rejected will be processed as set forth in this subchapter. After the parties have completed the prehearing stages of review, recommendation, submission of evidence, and informal conference on the grounds for objection that have not been rejected and the petitioner has the opportunity to request referral to SOAH, petitioner may, at the same time and in the same manner as grounds for objection that have not been rejected, request referral to SOAH of rejected grounds for objection. The request for referral to SOAH of rejected grounds for objection must be included in petitioner's request for referral to SOAH of grounds for objection that were not rejected. As to grounds for objection that have been rejected, the provisions of subsections (c) - (g) of this section will control. As to grounds for objection that have not been rejected, the remaining provisions of this subchapter will control.

**Source Note:** The provisions of this §9.4309 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

### **9.4310. Study and Audit Documents**

- (a) The documents created, obtained, and utilized by the division in conducting the study or performing the audit, as applicable, are considered the initial evidence in a protest of the comptroller's findings under Government Code, §403.302(g) or (h). Except as provided in subsection (b) of this section, all such documents are deemed admissible evidence for purposes of any hearing referred to the State Office of Administrative Hearings (SOAH) under this subchapter.
- (b) Any documents created, obtained, and utilized by the division in conducting the study or performing the audit, as applicable, that are not made available in response to a proper request in accordance with the Texas Public Information

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Act are deemed, as to the division, inadmissible for purposes of any hearing referred to SOAH under this subchapter. This subsection does not restrict a petitioner's right to file such documents in support of a ground of objection as provided under this subchapter. If a petitioner does elect to file such documents, the documents will be deemed admissible evidence on each ground of protest in support of which the documents are filed for purposes of any hearing referred to SOAH under this subchapter.

- (c) Any claim by a petitioner that documents created, obtained, or utilized by the division in conducting the study or performing the audit, as applicable, were not made available in response to a proper request in accordance with the Texas Public Information Act shall be made by written notice to the division director within seven calendar days of delivery by the division of such documents pursuant to §9.4311(c) of this title (relating to Prehearing Exchange and Informal Conference). Petitioner's notice must include a copy of petitioner's request for documents, any response received from the division (although such response(s) need not include copies of the documents produced therewith), and identification of the specific documents petitioner claims were not made available. If petitioner fails to timely provide such written notice to the division director, the claim shall be deemed waived for purposes of the protest.
- (d) After receipt of timely written notice under subsection (c) of this section and consideration of petitioner's claim, the division director shall deliver to petitioner written notice as to whether or not the documents at issue will be withdrawn as evidence. If the documents at issue are not withdrawn as evidence, the matter will be determined at the SOAH hearing, if any, on the ground of protest at issue. The division director's notice will include all documentary evidence that the division will introduce and identification of all witnesses who may testify at the time of the SOAH hearing, if any, relating to petitioner's claim under subsection (c) of this section. The petitioner shall, within five calendar days of delivery of the division director's notice, deliver to the division director all documentary evidence that the petitioner will introduce and identification of all witnesses who may testify at the time of the hearing, if any, relating to petitioner's claim under subsection (c) of this section. At any SOAH hearing on petitioner's claim, both parties shall be limited to the documentary evidence delivered and witnesses disclosed under this subsection.
- (e) SOAH shall have jurisdiction to determine a petitioner's claim asserted under subsection (c) of this section only if the ground of protest for which the documents at issue were submitted is referred to SOAH as otherwise provided under this subchapter. The Administrative Law Judge's (ALJ's) determination shall be limited to whether or not the documents at issue are admissible.

**Source Note:** The provisions of this §9.4310 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4311. Prehearing Exchange and Informal Conference**

- (a) After reviewing a petition, the division will send petitioner responses to the petitioner's relief requested in its grounds for objection. The division's responses may include rejection as set forth in this subchapter, agreement, disagreement, or modification. No response to a rejection shall be permitted. An agreement as to a ground for objection is deemed final resolution as to the ground for objection to which the division granted the requested relief.
- (b) Petitioner will be given a reasonable period of time, but no less than 15 calendar days to accept the division's recommendations and waive any further consideration of the petition or to reply to the division's responses of disagreement and modification. A petitioner that does not accept the division's recommendations and waive further consideration of the petition shall reply advising the division, as to each ground for objection to which the division has responded with disagreement or modification, as to petitioner's agreement or disagreement. For each ground for objection as to which petitioner does not agree with the division's recommendation, petitioner must file with the division director all supplemental evidence supporting the ground for objection and provide the identity and resumé or summary of qualifications of each witness, other than the chief appraiser or other employees of the appraisal district that appraises property for a protesting school district, who may testify at any hearing on the ground for objection. Such testifying witnesses shall be identified in a list, identifying for each on which grounds for objection the witness may testify, and a current resumé, curriculum vitae, or summary of qualifications and identification of relevant certifications and licenses shall be provided for each witness. No witness identification is required for the chief appraiser or other employees of the appraisal district that appraises property for a protesting school district (including a school district made the subject of a protest filed by an authorized appraisal district as provided in this subchapter). The method of delivery, timeliness of filing, and number of copies required of the supplemental supporting evidence and witness disclosure shall be governed in accordance with the provisions of §9.4306 of this title (relating to Filing a Protest). All documentary evidence shall be filed in the following manner: organized and separated by cover sheets to correspond to each ground for objection, with each cover sheet clearly identifying the ground for objection number, category, and property identification number, company identification number, or land class and item of

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income or expense, as applicable. If one or more documents are included as evidence for more than one ground for objection, the documents may be marked and identified as an exhibit and provided only once, rather than copied for each applicable ground for objection. Each set of documents must be marked as a separate exhibit (for example, “Exhibit A,” “Exhibit B,” etc.). However, if documents are required under this subchapter to be submitted in triplicate, all documents are required to be submitted in triplicate, including exhibits. A petitioner’s failure to timely respond as provided in this subsection constitutes final resolution of the petitioner’s protest. A petitioner’s failure to indicate, in an otherwise timely-filed response, agreement or disagreement in response to the division’s response of disagreement or modification as to any ground for objection will constitute agreement as to the ground for objection and, thus, be deemed final resolution as to the ground for objection. All documents required pursuant to this subsection must be filed with petitioner’s reply. Thus, all information required pursuant to this subsection must be filed together in one submission, even if petitioner’s deadline to reply has not yet passed.

- (c) Within 15 calendar days after receipt of petitioner’s reply and evidence, if any, the division shall deliver to petitioner a copy of the documents created, collected, and utilized in conducting the study or performing the audit, as applicable, that the division plans to introduce as evidence relating to the grounds for objection and all rebuttal evidence regarding each ground for objection to which petitioner did not agree and provide the identity and resumé or summary of qualifications of each witness, other than comptroller employees, who may testify at any hearing on the ground for objection. Such testifying witnesses shall be identified in a list, identifying for each on which grounds for objection the witness may testify, and a current resumé, curriculum vitae, or summary of qualifications and identification of relevant certifications and licenses shall be provided for each witness. No witness identification is required for comptroller employees. All documentary evidence shall be filed in the following manner: organized and separated by cover sheets to correspond to each ground for objection, with each cover sheet clearly identifying the ground for objection number, category, and property identification number, company identification number, or land class and item of income or expense, as applicable. If one or more documents are included as evidence for more than one ground for objection, the documents may be marked and identified as an exhibit and provided only once, rather than copied for each applicable ground for objection.
- (d) At or after the time that the division delivers its evidence to petitioner pursuant to subsection (c) of this section, the division will provide the petitioner with revised recommendations, if any, and notice of the date, time, and place of the informal conference to be held for consideration of petitioner’s remaining grounds for objection, if any. A petitioner may accept the division’s recommendations of disagreement or modification made to that point and waive further consideration of the petition or appear at the informal conference. Participation in the informal conference is a jurisdictional prerequisite to referral of grounds for objection to the State Office of Administrative Hearings (SOAH) for hearing. Failure to appear at the scheduled informal conference will be deemed acceptance by the petitioner of the division’s recommendations and waiver by the petitioner of further consideration of petitioner’s protest. Notice under this subsection will be made by one of the following methods: U.S. first class mail, facsimile transmission, or e-mail.
- (e) If the division has identified any failure of petitioner to properly comply with the requirements of labeling and organizing evidence, at the time of the informal conference the petitioner will be notified of such failure and given the opportunity to correct such failure through identification of evidence that was intended to correspond to grounds for objection that remain subject to referral to SOAH. This subsection does not apply to grounds for objection that have been rejected, grounds for objection that have been deemed resolved by agreement of the division, or grounds for objection that have been resolved by agreement of the petitioner. This subsection does not permit a petitioner to submit any additional information, documentation, or evidence. If a petitioner, in correcting a failure to properly comply with the requirements of labeling and organizing evidence, reorganizes the evidence in such a manner as to include evidence under a ground of objection other than the ground of objection understood by the division to be the ground of objection to which the evidence related when originally submitted and the matter is referred to SOAH, the division may submit additional rebuttal evidence, if necessary, upon referral to SOAH.
- (f) If a petitioner and the division are unable to resolve all of the remaining grounds for objection timely raised in a petitioner’s protest through the informal settlement conference, the petitioner may request a hearing before a SOAH Administrative Law Judge (ALJ).
- (g) A petitioner’s request for a hearing before a SOAH ALJ shall be made by filing a written request with the division director no later than seven calendar days after the informal conference and must specifically identify all grounds for objection for which referral is requested and identify the individual(s) who will present argument and introduce evidence for petitioner at SOAH if a referral to SOAH is made.

**Source Note:** The provisions of this §9.4311 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

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### 9.4312. Scheduling a Protest Hearing

- (a) Referral of any matter to the State Office of Administrative Hearings (SOAH) may be made only by the division. A referral made pursuant a request under §9.4311 of this title (relating to Prehearing Exchange and Informal Conference) of grounds for objection raised in a petition is initiated by filing with SOAH a request to docket that requests that the hearing be conducted on a date certain. At the time a referral made pursuant to a request under §9.4311 of this title is initiated, the division shall also provide to SOAH:
  - (1) a list of the grounds for objection being referred;
  - (2) a copy of the documents delivered by the division pursuant to §9.4311(c) of this title, created, collected, and utilized in the conduct of the study or performance of the audit, as applicable, relating to the grounds for objection being referred;
  - (3) a copy of the portions of the petition relating to the grounds for objection being referred, including documentary evidence submitted with the petition in support of the grounds for objection being referred;
  - (4) a copy of any supplemental documentary evidence, witness identification, and resumé, curricula vitae, and summaries of qualifications timely submitted by petitioner pursuant to §9.4311 of this title relating to the grounds for objection being referred;
  - (5) a copy of any rebuttal documentary evidence, witness identification, and resumé, curricula vitae, and summaries of qualifications timely delivered by the division pursuant to §9.4311 of this title relating to the grounds for objection being referred. The division shall also provide rebuttal evidence, if any, pursuant to §9.4311(e) of this title;
  - (6) if the referral to SOAH includes grounds for objection in protesting the comptroller's preliminary findings under Government Code, §403.302(g), a copy of the applicable International Association of Assessing Officers (IAAO) Standard on Ratio Studies; and
  - (7) if the referral to SOAH includes grounds for objection in protesting the comptroller's preliminary findings under Government Code, §403.302(g), a copy of the comptroller's written procedures, if any, including the field appraisers' procedures manual, for conducting the property value study at issue, if applicable to the grounds for objection referred.
- (b) The documents submitted pursuant to subsection (a)(1)–(7) of this section will be submitted in an organized manner to facilitate reference to such documents by the Administrative Law Judge (ALJ).
- (c) At the discretion of the division director, matters referred to SOAH pursuant to this section may be joined for purposes of hearing.
- (d) Following receipt of the request to docket pursuant to this section, SOAH shall assign the case a docket number; assign an ALJ; schedule the protest for hearing to be held not later than 30 calendar days after the date of the referral; and, no later than 20 calendar days prior to the hearing, deliver written notice of the hearing date, time, and location of the hearing to the comptroller's representative identified in the request to docket.
- (e) Hearings scheduled pursuant to this section shall be held at a location designated by SOAH.
- (f) Following receipt of the written notice of the hearing date, time, and location from SOAH pursuant to this section, the division shall deliver to petitioner notice of the date, time, and place fixed for a hearing and a copy of all documents that were submitted to SOAH pursuant to subsection (a) of this section. Such notice and copies of documents submitted to SOAH must be delivered, unless otherwise agreed by the parties, not later than ten calendar days before the date of the hearing. Notice under this subsection will be made by one of the following methods: U.S. first class mail, facsimile transmission, or e-mail.

**Source Note:** The provisions of this §9.4312 adopted to be effective January 26, 2011, 36 TexReg 268

### 9.4313. Conduct of Oral Hearing

- (a) Except as otherwise provided in this subchapter, the Administrative Law Judge (ALJ) shall convene a hearing for a protest.
- (b) All oral hearings under this subchapter shall be recorded. A petitioner will be provided a copy of the recording after a written request and payment of a cost-based fee. A petitioner may at any time make arrangements for and bear the cost

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of having a hearing recorded and transcribed by a court reporter, provided the comptroller timely receives a copy of the transcript at petitioner's expense.

- (c) Oral hearings are generally open to the public and shall be held in Austin. However, the ALJ shall close a hearing, on the ALJ's own motion or on the motion of any party or if directed by the comptroller, if confidential information may be disclosed during the hearing.
- (d) Hearings shall be conducted in accordance with this subchapter. The Texas Administrative Procedures Act, the Texas Rules of Procedure, the Texas Rules of Evidence, and the State Office of Administrative Hearings (SOAH) procedural rules do not apply. Nothing in this subsection shall preclude general application by a SOAH ALJ of evidentiary principles addressed in the Texas Rules of Evidence, such as relevance and witness credibility, as an advisory tool in making evidentiary determinations in protests of the comptroller's findings under Government Code, §403.302(g) and (h).
- (e) Except as otherwise provided by this subchapter, the comptroller shall present its evidence and argument prior to each petitioner. After each petitioner has presented its evidence and argument, the comptroller shall be given the opportunity to present rebuttal evidence and argument. With that limitation, the ALJ shall establish the order of proceeding and is responsible for closing the record.
- (f) No party may offer documentary evidence at the hearing that was not filed and served in accordance with the requirements of this subchapter except upon a showing of good cause for the failure to comply. Upon a party's request supported by a showing of good cause, the ALJ may admit such evidence. No evidence may be submitted to SOAH on any ground of protest other than the grounds for objection identified and submitted by the comptroller.
- (g) Testimony of witnesses shall be confined to documentary evidence that has been timely submitted pursuant to the terms of this subchapter. The testimony of a witness may provide, subject to proper objections, background regarding, governing law or standards relating to, or explanation of the documentary evidence, but shall not introduce facts that are not reflected in the documentary evidence.
- (h) The following individuals are deemed qualified to testify in a hearing before SOAH conducted pursuant to this subchapter: comptroller employees, chief appraisers, and individuals registered as Class IV Appraisers with the Texas Department of Licensing and Regulation. Any asserted challenge to such individuals may be considered by the ALJ in considering the weight and credibility of testimony, but shall not be grounds for exclusion. All other individuals are subject to challenge and exclusion.
- (i) Argument shall be confined to the evidence and to arguments of other parties.
- (j) Admissions, proposals, offers, or agreements made or reached in the compromise of disputed issues prior to referral to SOAH may not be admitted in a hearing. Admissions, proposals, offers, or agreements made or reached in the compromise of disputed issues regarding other protests or prior study years may not be admitted in a hearing.
- (k) Unless permitted by the ALJ, no more than two representatives for each party or aligned group of parties shall present argument and introduce evidence at a hearing.
- (l) Except as otherwise provided in this subchapter, the ALJ shall establish the order of proceeding and is responsible for closing the record.
- (m) An attorney who appears at a protest hearing to argue and present evidence on behalf of a petitioner shall not testify at the hearing.

**Source Note:** The provisions of this §9.4313 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 9, 2013, 38 TexReg 150

#### **9.4314. Administrative Law Judge's Powers**

- (a) The Administrative Law Judge (ALJ) shall conduct a protest hearing in a manner insuring fairness, the reliability of evidence, and the timely completion of the hearing. The ALJ shall have the authority necessary to receive and consider evidence as provided under this subchapter and propose decisions only on the issues referred by the comptroller.
- (b) The comptroller has the burden to prove the accuracy of comptroller's findings under Government Code, §403.302(g) or (h).
- (c) The ALJ's authority includes, but is not limited to, the following:
  - (1) rule on motions and the admissibility of evidence;



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- (2) join related protests for hearing;
  - (3) conduct a single hearing that provides for:
    - (A) participation by the affected school district(s) and any eligible property owner that has filed a valid and timely petition, if the hearing concerns the comptroller's preliminary findings under Government Code, §403.302(g); or
    - (B) participation by the affected school district(s), and the commissioner of education, and any eligible property owner that has filed a valid and timely petition, if the hearing concerns the findings of an audit of a school district's taxable property value conducted pursuant to Government Code, §403.302(h);
  - (4) conduct oral hearings in an orderly manner and expel from any proceeding any individuals who, after an appropriate warning, fail to comport themselves in a manner befitting the proceeding and continue with the proceeding, hear evidence, and render a decision on the protest;
  - (5) administer oaths to all persons presenting testimony;
  - (6) examine witnesses and comment on the evidence;
  - (7) ensure that evidence, argument, and testimony are introduced and presented expeditiously;
  - (8) refuse to hear arguments that are repetitious, not confined to issues referred to State Office of Administrative Hearings (SOAH) by the comptroller pursuant to this subchapter, not related to the evidence, or that constitute mere personal criticism;
  - (9) accept and note any petitioner's waiver of any right granted by this subchapter;
  - (10) limit each oral hearing to two hours for presentation of evidence and argument or extend the two-hour time limit in the interest of a full and fair hearing; and
  - (11) exercise any other powers necessary or convenient to carry out the ALJ's responsibilities and to ensure timely certification of changes in preliminary findings to the commissioner of education.
- (d) The ALJ shall take official notice of the written policies and procedures of the comptroller pertaining to the property value study.
  - (e) The ALJ may entertain motions for dismissal at any time as requested by the comptroller. Grounds for dismissal shall include, but are not limited to, the following:
    - (1) failure to prosecute;
    - (2) unnecessary duplication of proceedings or res judicata;
    - (3) withdrawal of protest;
    - (4) moot questions or obsolete petition; or
    - (5) the comptroller has certified amended preliminary findings pursuant to this subchapter.
  - (f) The ALJ may grant a request to postpone an oral protest hearing if good cause is shown and doing so would not prevent timely certification of changes in preliminary findings to the commissioner of education. A request to postpone must be in writing, show good cause for the postponement, and be delivered five calendar days before the date the protest hearing is scheduled to begin. Good cause does not include a claim that the time periods established in this subchapter are too short to meet the deadline. If requested in writing by the petitioner and for good cause shown, the ALJ may waive the requirement that the request for postponement be made five calendar days in advance of the deadline.
  - (g) Except as otherwise provided in this subchapter, the ALJ in a protest may not communicate outside a protest hearing, directly or indirectly, with any agency, person, petitioner, or petitioner's agent regarding any issue of fact or law relating to the protest unless all parties in the protest have notice and opportunity to participate.

**Source Note:** The provisions of this §9.4314 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4315. Proposal for Decision After Oral Hearing**

- (a) The Administrative Law Judge (ALJ) shall prepare a proposal for decision that includes the ALJ's recommendations for final decision and the rationale supporting such recommendations.



- (b) The ALJ shall serve the proposal for decision on the deputy comptroller, the petitioner, and the division director by facsimile, electronic mail, hand delivery, or overnight mail delivery service. An ALJ will forward a copy of the record to the deputy comptroller with any proposal for decision.
- (c) A party to the protest that is adversely affected by the proposal for decision may, within seven calendar days after the date the proposed decision is sent by facsimile, electronic mail, hand delivery or is delivered to an overnight delivery service, file with the deputy comptroller exceptions to the proposal for decision. Exceptions filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery, or email. If exceptions are filed, all other parties may, within seven calendar days after the date the exceptions are filed, file replies to the exceptions. Replies filed pursuant to this subsection shall be filed with the comptroller's Special Counsel for Tax Hearings by facsimile or hand delivery and shall on the same date be served on all other parties to the protest by facsimile, hand delivery or email.

**Source Note:** The provisions of this §9.4315 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4316. Final Decision After Oral Hearing**

- (a) The deputy comptroller shall issue a final order and, in doing so, may adopt, amend, or reject the Administrative Law Judge's (ALJ's) proposal for decision.
- (b) A decision is final on the date signed by the deputy comptroller.
- (c) The deputy comptroller shall deliver written notice of the final decision to each party to the protest.

**Source Note:** The provisions of this §9.4316 adopted to be effective January 26, 2011, 36 TexReg 268

### **9.4317. Effect of Final Decision and Certification of Changes**

- (a) A final decision ordering changes to findings made as a result of a school district's protest or other final resolution of the protest under this subchapter resulting in changes to preliminary findings arising from a school district's protest will change Government Code, §403.302 findings for the school district or school district split regarding which the protest was filed and Tax Code, §5.10 findings for all appraisal districts in which the school district or school district split is located.
- (b) A final decision ordering changes to findings made as a result of a property owner's protest or other final resolution of the protest under this subchapter resulting in changes to preliminary findings arising from a property owner's protest will change Government Code, §403.302 findings for the school district(s) or school district split(s) regarding which the protest was filed and Tax Code, §5.10 findings for the appraisal district(s) in which the school district(s) or school district split(s) is located. After final resolution of a property owner's protest resulting in changes in preliminary findings and involving property located in two or more school districts or school district splits that is valued as a unit, the division will provide to each appraisal district in which the property is located and to the protesting taxpayer a list of value ratios calculated on the revised unit value for each school district and school district split located within the appraisal district in which the property is located. The list is provided for informational purposes only and will not impact the values certified to the commissioner of education.
- (c) A final decision ordering changes to findings made as a result of an appraisal district's protest authorized by this subchapter or other final resolution of the protest under this subchapter resulting in changes to preliminary findings arising from an authorized appraisal district's protest will change Government Code, §403.302 findings for the school district or school district split regarding which the protest was filed and Tax Code, §5.10 findings for the appraisal district.
- (d) Certification of changes to preliminary findings. Unless the comptroller determines that circumstances require otherwise, the comptroller shall certify to the commissioner of education all changes to Government Code, §403.302(g) preliminary findings on or before August 15 of the year following the year of the study.

**Source Note:** The provisions of this §9.4317 adopted to be effective January 26, 2011, 36 TexReg 268; amended to be effective January 8, 2014, 39 TexReg 89

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